

Attachment B – Summary and Response to Comments Received During the 15-Day Comment Period

Section 6448 (General Requirements)

No.	Comment/Response	Commenter
1	<p>There is an overly conservative approach to interpreting the science associated with 1,3-Dichloropropene (1,3-D) toxicity, human exposure potential and risk assessment, which greatly threatens the practical uses for some California growers. The updated proposal includes unnecessarily large setback distances and small maximum field sizes. In the updated proposal, the Department of Pesticide Regulation (DPR) has indicated the willingness to establish location-specific setback distances and maximum field sizes (e.g., “Inland” vs. “Coastal” counties). However, DPR continues to apply “worst-case” meteorological conditions across county-types (i.e., “Inland” vs. “Coastal”) despite county-specific meteorological data having been evaluated by DPR. An improvement opportunity for consideration is if DPR were to calculate setback distances and maximum field sizes based on county-specific meteorological conditions, important refinements in setback distances and maximum field sizes would result, providing important logistical flexibility to many growers in the state.</p> <p><i>The addition of county-specific setback tables would add complexity that would make implementation and enforcement of the proposed regulation difficult. As there are setback tables for both winter and non-winter seasons, this would require the development of 116 setback tables for the 58 counties in California, which is not practical. In addition, the use of county-specific setback tables would add implementation and enforcement complexities to cases where a field spans over two or more counties. Finally, the designation of Inland and Coastal counties is consistent with chloropicrin labeling, facilitating compliance and enforcement for products containing both 1,3-D and chloropicrin. Additionally, see response to comment number (no.) 56 in Attachment A titled “Summary and Response to Comments Received During the 60-Day Comment Period.”</i></p>	109
2	<p>In the newest proposal, DPR has done additional modeling, but only for two regions (coastal and inland), which is proposed to replace the original one-size-fits-all approach taken by DPR. We request that DPR consider additional refinements based on regions that are more discreet and accurate than “coastal” and “inland”, particularly considering that in both current cases, DPR selected the worst-case meteorological conditions to determine the setback distances. As proposed, a majority of potential 1,3-D users will be penalized with larger setbacks than needed and which are driven by meteorological conditions that may be several hundred miles away from their fields.</p>	115

	<p>As a primary custom application company in California who walks in-step with growers on the planning and executing of their soil fumigation needs, we have no problem with complex regulations (e.g., many “regions” with more refined setback distances) if they afford greater flexibility to growers and the multitude of site-specific soil and weather conditions that exist.</p> <p><i>See response to comment no. 1.</i></p>	
3	<p>It seems that with tarp on 40% of the acreage, the acreage sizes (Table 8 a &amp; b) go down for some rates compared to the previous 50% tarp coverage. This change hurts almonds and other orchards or vineyards not as widely spaced. The most common between row spacing is 21 ft for almonds. Thus, if one assumes an 11ft wide tarp, the 50% coverage is more appropriate for almonds. Is there a way to have a calculator to account for the amount of soil covered if tarp in strips are applied or to add the original 50% tarp coverage back to the available options?</p> <p><i>The intent of the new proposed application methods is to provide growers with options for achieving emissions reductions. The 50% totally impermeable film (TIF) tarp methods were not feasible for commodities such as walnuts. The 40% TIF tarp methods are feasible all tree and vine commodities to use these methods, as growers can still opt for larger TIF tarp coverage for commodities with shorter tree or vine spacing requirements.</i></p>	101
4	<p>We request clarification on what is considered an “occupied” structure. The current language in section 6448(b) says a setback is also “required for any other indoor or outdoor site that will be occupied for at least 72 consecutive hours during and following a 1,3- D application.” We are unsure how the 72 hours is defined. Would that exclude an office building that is occupied during normal business hours but not in the evenings? Would that exclude a workshop on-farm that is intermittently occupied to obtain materials or repair equipment?</p> <p><i>This comment is outside of the scope of the modifications proposed during the 15-day comment period. See response to comment no. 2 in Attachment A titled “Summary and Response to Comments Received During the 60-Day Comment Period.”</i></p>	101
5	<p>We reiterate our concerns with the very small total acreage that can be treated if need to use a broadcast, full rate of 1,3-D treatment in November. There is just no way to maintain the right soil moisture conditions, weather conditions, etc. to complete treatment of a block when only 10, 5, 4 acres can be treated at a time. This adds incredible complexity, additional costs, and increased accident risk of having an applicator and their equipment return to a field multiple times.</p>	101

	<p><i>The purpose of the proposed regulations is to mitigate both acute and cancer risk to non-occupational bystanders, while simultaneously providing growers with options for achieving emissions reductions. For example, an almond orchard has four fumigation method options available, which include 24-inch injection, TIF tarp methods (broadcast/strip), and 40% TIF tarp methods (both 18-inch and 24-inch injections). For all of the setbacks available to growers, the acreage limits for these methods range from 3–80 acres for the maximum application rate (332 lbs/acre) in November in Inland and Coastal California counties, allowing growers flexibility in choosing fumigation methods based on their acreage and setback distance availability.</i></p>	
6	<p><b>We are deeply concerned about the modifications that will increase the limits on the amount of acreage that can be treated by 1,3-D near where people live. (We refer here to the tables of setbacks and acreage limits given in the document titled 1,3-Dichloropropene Field Fumigation Requirements.) The modification, which adds 300- and 400- foot setbacks, will increase acreage limits because fumigations within those categories would previously have had to comply with the 200- foot setback limits.</b></p> <p><b>For example, a fumigation with a rate of 130 lbs per acre done in Coastal counties with FFM 1206 would previously have had an acreage limit of 30 if the nearest occupied structures were 400 feet away. Under the proposed modifications, this limit would be doubled to 60 acres. In other cases, the acreage limits are increased without much explanation. For example, again with FFM 1206, in Inland counties during March through October the acreage limit within 100 feet of occupied structures increases from 25 to 30 for applications of 150 pounds per acre.</b></p> <p><b>For fumigation with a high rate of 300 lbs per acre in inland counties with FFMs 1224-1226 (24” deep untarped and tarped) from March-October, there was a previous acreage limit of 50 acres if the nearest occupied structure was between 200 feet and 500 feet away. Now the acreage limit is increased 25% to 75 acres at 300 feet.</b></p> <p><b>Neither Dow’s January public comment letter requesting the addition of 300- and 400- foot setbacks nor anything contained in DPR’s Notice of Modifications documents contradicts our point that the change would result in higher levels of exposure to residential bystanders compared to the originally proposed regulation. DPR has not modeled how many applications will fall into the new setback categories or how this will affect emissions. This unnecessary and harmful step</b></p>	108, T101

	<p>backwards made to “allow greater flexibility for growers” (and to allow Dow to sell those growers more 1,3-D) should not be included in the final regulation.</p> <p><i>The addition of 300-foot and 400-foot setbacks to the setback tables, as well as more options for application rates, allows for more granularity in compliance, and is consistent with the regulatory target and current practice for other fumigants. All the proposed setback and acreage limits, including the 300-foot and 400-foot setback limits, will produce emission levels below the 55 ppb/72-hour average target concentration in compliance with the acute risk management directive (RMD) for non-occupational bystanders.</i></p> <p><i>The modified regulation text included minor changes to the originally proposed setback tables. The revised setback tables included in the modified regulation text used more data points for interpolation, specifically 100, 200, 300, 400, and 500 feet, in comparison with the data points used in the originally proposed setback tables, only at 100, 200, and 500 feet. The additional data points for interpolation slightly changed the curve fitting results, and the change could be further magnified by the “rounding down the acreage to the nearest 5” approach used for reporting the final setback tables. For example, the modeling results of 30.1 acres will be reported as 30 acres, while 29.9 acres will be reported as 25 acres. In addition, the changes are also related to the updated (after the initial development of the originally proposed setback tables) flux profiles for soil #20 for all methods. These explanations address the examples that the commenter raised about the changes reflected in the revised setback tables, except for the first example. For the first example, we believe that the commenter is comparing the acreage limits between seasons on the same table. DPR’s notice of modification states the setback requirements will still achieve the regulatory target concentration as required.</i></p>	
7	<p>We oppose the reduction in tarp coverage from 50% to 40% for deep/broadcast applications (methods 1250 and 1264). Fumigated strips can still be aligned with tree rows with some additional tarp strips used to bring the tarp coverage to at least 50%. The goal should be to make the regulations truly health protective. This change does the opposite. DPR estimates that the revision increased maximum 72-hour emissions by approximately 15% and cumulative 21-day emissions by approximately 10% for the 21-soil mean (Table 1) relative to the original estimates for FFM 1250 and 1264. This unnecessary and harmful step backwards should not be included in the final regulation.</p>	108, T101

	<i>The regulation was changed in response to a comment that the proposed 50% TIF tarp methods (FFM 1250 and FFM 1264) would not be in alignment with pending tree rows and therefore the method was unlikely to be used. To address tree planting practices while achieving target emission levels, DPR developed emissions estimates for the two 40% TIF tarp methods and used those emissions estimates in the creation of setback tables for the 40% TIF tarp methods. The 40% TIF tarp method setback tables replaced the 50% TIF tarp method setback tables for both 40% and 50% TIF tarp methods. The change in emissions estimates is therefore reflected in the setback tables, as the setback tables for the 40% TIF tarp methods are more restrictive than the 50% TIF tarp methods. All commodities that need to use 50% TIF tarp methods because of their spacing requirements must follow the restrictions for the 40% TIF tarp methods. Therefore, the substitution of 50% TIF tarp methods for 40% TIF tarp methods will be more protective for both acute and cancer risk.</i>	
8	<b>We support the inclusion of “regions” being added to the proposed text, which recognizes the differences between inland and coastal soil conditions.</b>  <i>DPR acknowledges this comment.</i>	116
9	<b>We appreciate DPR including a GPS guided option for 24-inch depth.</b>  <i>DPR acknowledges this comment.</i>	101

Section 6448.4 (Annual 1,3-Dichloroprene Report)

<b>No.</b>	<b>Comment/Response</b>	<b>Commenter</b>
10	<b>Requiring an annual report with a public comment period and including the fumigation method in pesticide use reporting will improve transparency but the regulation also needs to include a timeline or deadline for annual report release. The proposed wording “as soon as reasonably practicable” is inadequate. We propose that until a ban is in place, June 1st of the subsequent year as an appropriate deadline for issuing the Annual Report.</b>  <i>In the second modifications to the regulation text, DPR amended the regulation text to specify that the Annual 1,3-D Report will be made available for each calendar year by October 1 of the following year or as soon thereafter as is reasonably practicable, starting with a report covering calendar year 2024. The Annual 1,3-D Report will include analyses of pesticide use data provided by applicators via County Agricultural Commissioners and laboratory results provided by the California Department of</i>	102

	<p><i>Food and Agriculture. DPR selected October 1 to provide sufficient time for DPR to receive and analyze the data. The actual date of publication will likely depend on the time needed to complete and report the laboratory analysis of air monitoring samples, which is currently approximately six months. After receiving the laboratory data and pesticide use data, DPR will need approximately three months to review, analyze and prepare a report of the data.</i></p>	
11	<p>The scope of the report also needs to be expanded beyond the 10 highest-use townships in the state. At minimum it must include all high use townships in each county and those spanning multiple counties.</p> <p><i>This comment is outside of the scope of the modifications proposed during the second 15-day comment period. See response to comment no. 38 in Attachment A titled “DPR 22-005 Public Comments and DPR Responses from the 60-day comment period.”</i></p>	102
12	<p>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. Clear regulatory triggers have precedence in the field fumigation VOC emission limits (CCRT3 section 6452.2).</p> <p><i>This comment is outside of the scope of the modifications proposed during the 15-day comment period. See response to comment no. 43 in Attachment A titled “Summary and Response to Comments Received During the 60-Day Comment Period.”</i></p>	102
13	<p>The current modifications state only that the reports will be released “as soon as reasonably practicable.” A firm date is necessary so that changes in 1,3-D use levels can be monitored. In the concerning situation where 1,3-D use increases, people living near 1,3-D applications need this information promptly. We recommend a firm date of July 1st for draft report release for comment. This allows 6 months for preparation of the report. This is a reasonable timeline for even a comprehensive report given that all use reports will be submitted electronically and that fewer than 3,000 applications are made each year, with use concentrated in about 20 counties. DPR’s failure to enact a firm timeline for the public release of annual reports of 1,3-D use would make the regulation unlawfully vague.</p> <p><i>See response to comment no. 10.</i></p>	108, T101

14	<p><b>We still question the utility of listing the top 10 townships with usage per county, as townships that are tree/vine heavy may have high usage in one year and then zero or limited usage for several years. 1,3-D applications only occur prior to planting, meaning that depending on the type of orchard/vineyards, this occurs once every 20-40 or more years. How is this information useful and is it relevant if DPR decides to move forward with a notification requirement?</b></p> <p><i>This comment is outside of the scope of the modifications proposed during the 15-day comment period. See response to comment no. 38 in Attachment A titled “Summary and Response to Comments Received During the 60-Day Comment Period.”</i></p>	101
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6626. (Pesticide Use Reports for Production Agriculture)

No.	Comment/Response	Commenter
15	<p><b>The regulations would require DPR 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?</b></p> <p><i>The quarterly postings of the summaries of 1,3-D pesticide use report data will provide the public a timely and transparent method to measure the effectiveness of the 1,3-D regulations. The quarterly use reports will be summarized by county, township, crop, and fumigation method. Therefore, the use data summarized by county and township will provide comparison to use under the current township cap requirements. The quarterly use reports will also show the public the level of adoption of the proposed fumigation methods with lower emissions (e.g., tree and grape crops using 24-inch injection or TIF-tarp methods).</i></p>	103, 104, 109, 116
16	<p><b>We find the requirement of electronic reporting fair, though we continue to wonder at the value of trying to report quickly on the use of 1,3-D every quarter. In our experience the use data does often need a careful assessment for accuracy prior to release. Additionally, should DPR decide to move forward with a revised notification system, we request that additional consideration be</b></p>	101

	<p>given to what information is relevant as this proposal now increases the regulatory burden on growers/ applicators with reporting both before and after applications.</p> <p><i>Submission of 1,3-D use records is currently required and more than 99% of submissions are already submitted electronically within 30 days of application date; therefore, the quarterly use reports should not place undue burden on growers or applicators. Also, see response to comment no. 15.</i></p>	
17	<p>Should DPR 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?</p> <p><i>DPR will evaluate 1,3-D use in the highest use township in each of the 10 highest use counties in the annual report. The evaluation will include an estimation of the peak 24-hour, peak 72-hour, and average 1-year concentrations of 1,3-D for each of those townships for the previous year. The estimated 1,3-D concentrations will be compared to both the estimates of 1,3-D concentrations used to develop the proposed regulations and 1,3-D concentrations from air monitoring, where available. If the estimated or monitored 1,3-D concentrations are higher than the estimated concentrations used for regulation development, then the report will describe the action(s) DPR will take to address the higher 1,3-D concentrations.</i></p>	103, 104, 109
18	<p>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. Annual use reports contain accurate information about crop type, fumigation method, and month of use, so we see no justification for reporting potentially inaccurate or redundant quarterly data. 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. Quarterly reporting of this detailed information is unnecessary. Without a discernable benefit, DPR should endeavor to eliminate redundancies and unnecessary workload.</p> <p><i>See responses to comment nos. 15 and 16.</i></p>	103, 104, 109, 116
19	<p>DPR has already acknowledged that quarterly reports will not be conclusive. We are concerned that preliminary data cannot be evaluated in a timely basis to demonstrate that the additional</p>	103, 104, 109, 116



	<p>health protective measures are effective, and instead the data will be used to inappropriately justify demands for additional restrictions.</p> <p><i>See response to comment no. 15.</i></p>	
20	<p><b>It is a positive change to require posting of a quarterly summary of 1,3-D use report data on the DPR website, although we think that monthly posting of this data is both feasible and needed for keeping residents informed of use patterns. We support including county, township, month, crop and fumigation method in the summary data posted along with pounds of use and acres treated. The regulation needs to specify when the data must be posted, otherwise the regulation will be unlawfully vague. We recommend requiring posting 2 weeks after the end of the prior quarter or month. This is a reasonable timeline given that an average of around 200 fumigations are completed per month.</b></p> <p><i>DPR believes that the quarterly use reports will meaningfully inform the public of 1,3-D use patterns under the proposed regulations. Summaries of use by county, with information on use by township, for specific crops, and by field fumigation method will be provided. Reporting 1,3-D use monthly is not practical due to the timing required for and complexity of receiving and processing Pesticide Use Report (PUR) data for the web summary. Quarterly postings of 1,3-D use reports will provide time for DPR to receive, process and review use data and correct any significant errors in the data (which is currently the routine process for the PUR database).</i></p>	108
21	<p><b>We support requiring electronic submission of all 1,3-D use reports but request that all submissions be completed directly to the counties through the restricted materials permitting system. The permitting system provides stability and consistent procedures, whereas the system currently run by the registrant could end at any time.</b></p> <p><i>Section 6626(g)(1) provides commissioners discretion in specifying how pesticide use reports are electronically submitted; the proposed regulation does not require submittal using the registrant system. Additionally, commissioners can change the method of submittal as needed. Since the township cap remains in effect at least temporarily, using the registrant system is more efficient and accurate because the registrant requires applicators to submit 1,3-D pesticide use reports to their system for township cap purposes. Requiring applicators to also submit pesticide use reports using the permitting system is unnecessary and could cause errors due to duplicate pesticide use reports being submitted. Commissioners will require different electronic submittal if and when the registrant</i></p>	108

	<p><i>discontinues its system. The Alameda County Superior Court in Vasquez v. California Department of Pesticide Regulation (Case No. RG17847563) issued an order on March 9, 2023 directing the township cap to remain in place until regulations to mitigate cancer risk to occupational bystanders are in effect.</i></p>	
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Documents Relied Upon

No.	Comment/Response	Commenter
22	<p><b>A similar request submitted in our January comments to consider more flexibility based on actual weather conditions during the month of November was not included in the revisions.</b></p> <p><i>This comment is outside of the scope of the modifications proposed during the 15-day comment period. See response to comment no. 5 in Attachment A titled “Summary and Response to Comments Received During the 60-Day Comment Period.”</i></p>	101
23	<p><b>We appreciate that further evaluation of wind conditions led to proposing somewhat stricter acreage limits in Coastal counties. Given that detailed local wind records are not available for most locations where 1,3-D is applied and that modeling utilizing Parlier weather data still underpredicts 50% of peak emission events recorded at air monitoring network stations, we request that the Coastal acreage limits be applied statewide. Throughout the development of this regulation, DPR has made use of the AERFUM model to determine if the procedures specified in the regulation will be adequate to protect public health. We have had consistent concerns about the modeling since there is validation of soil flux and other parameters on only a small number of sites. The newest modeling provided with the modifications improves on earlier models, but still substantially underpredicts half of the peak emission events modeled regionally. The uncertainty in the modeling is another argument for a more health protective regulation.</b></p> <p><i>The setbacks for both Inland and Coastal counties were based on historical data from Parlier and Watsonville, respectively. These areas were selected to represent Inland and Coastal areas because</i></p>	108, T101

	<p><i>the weather data from these weather stations resulted in the most health-protective setback distances. Therefore, given that “worst-case” scenarios were selected for setback table determination, the setback tables will be health protective for the rest of California.</i></p> <p><i>The AERFUM model can run two different types of simulations: unit (single application) simulations and regional (multiple applications) simulations. The unit simulation function evaluates a single application event for concentrations at a field scale. The unit simulation function was used to develop setback tables for these proposed regulations. There are several conservative modeling inputs incorporated into the setback table determination process to provide health protective setback tables for all regions, including 1) the most-protective weather station data for both regions, 2) the 95<sup>th</sup> percentile concentration data for a given weather station, 3) the “Maximum Direction” method for setback calculations, and 4) the upper limit of the factor-of-two uncertainty range. The regional simulation models reported 1,3-D uses at a regional or sub-regional scale and the results can be compared to measured concentrations from monitoring locations. For the regional simulation modeling, DPR updated AERFUM to better evaluate high detections of 1,3-D observed in the Air Monitoring Network (AMN). DPR addressed the concern raised by this comment by incorporating spatial and temporal uncertainty/variability factors (“Modeling the high detections of 1,3-Dichloropropene in DPR’s Air Monitoring Network” by Luo and Uyeda, 2023). The table referenced in this comment, Table 4 in Luo and Uyeda, 2023, showed modeling results that were based on the standard regional simulation model, before the temporal and spatial uncertainty/variability factors were incorporated. Table 6 of that same document shows that the updated model was satisfactorily able to predict the 1,3-D concentrations from sampling stations.</i></p>	
24	<p><b>DPR evaluated about 12 weather datasets spanning 1,3-D use areas along the California coast and in the central valley. DPR’s analysis of the Low Wind Speed (LWS) fraction (hours with WS&lt;2mph divided by total hours) showed significant variability between weather stations, with the LWS fraction ranging from 0.255 to 0.355 for weather stations in the central valley, and 0.255 to 0.467 for weather stations in coastal areas. DPR selected the weather station with the highest LWS fraction in both the coastal and central valley 1,3-D use areas for simulating setbacks.</b></p> <p><b>Given the numerous compounding conservative assumptions made in the emissions modeling (HYDRUS) and setback modeling (AERFUM) as well as in the toxicology and risk assessment of 1,3-D, the use of the ‘worst-case’ weather data for coastal and central valley locations results in</b></p>	110, 114

	<p>setbacks that are unnecessarily large for protecting human safety, and in some cases would be impractical for growers to implement.</p> <p>We suggest that DPR refine their setback modeling using weather data that is most relevant for the 1,3-D use area in question. This should result in setbacks that are more practical for a grower to implement while maintaining bystander safety. The selection of 1,3-D use areas and the most relevant associated weather station may require consulting with subject matter experts from the California ARB.</p> <p><i>DPR considered both historical 1,3-D use and associated historical weather data when selecting representative weather stations for setback modeling. DPR considered the top counties ranked by 1,3-D use from 2013–2017 and selected high-use areas within those counties to calculate low wind speed fractions. Areas that had the highest 1,3-D use and the highest low wind speed fraction were further considered. Ultimately, one site for the Inland region (Parlier) and one site for Coastal region (Watsonville) were chosen for setback modeling based on the highest low wind speed fraction for each region. It should be noted that there are weather stations with even higher low wind speed fractions (such as downtown Los Angeles), but those stations were not used for modeling since they are not relevant to 1,3-D uses. The selection of Parlier and Watsonville for representative weather data will result in health-protective setbacks for all use areas of 1,3-D.</i></p> <p><i>Also, see response to comment no. 1.</i></p>	
25	<p>We commend DPR for considering the use of weather data sets that are more specific and hence relevant to unique 1,3-D use areas in California.</p> <p><i>DPR acknowledges this response.</i></p>	110

General

No.	Comment/Response	Commenter
26	<p>The rule is not designed to, and cannot, control 1,3-D use and emissions to the level recommended by the Office of Environmental Health Hazard Assessment (OEHHA) for cancer risk control. DPR must create a 1,3-D regulation that will limit air concentrations to 0.04 parts per billion, the safe harbor level established for all Californians by OEHHA.</p>	102, 105-108, 111-113, 117-160, 174, 180, 181, T101-

	<p><i>This comment is outside of the scope of the modifications proposed during the 15-day comment period. See response to comment no. 68 in Attachment A titled “Summary and Response to Comments Received During the 60-Day Comment Period.”</i></p>	<p>T105, T108-T114, T116, T119, T120, T131, T135, T137, S1-S20, S22, S23, S29, S30-S56, S58-S107</p>
27	<p><b>Until a ban is in place, the township cap must be retained but reduced to a 1,3-D use level designed to protect to the Proposition 65 No Significant Risk Level (NSRL).</b></p> <p><i>This comment is outside of the scope of the modifications proposed during the 15-day comment period. See responses to comment nos. 68 and 79 in Attachment A titled “Summary and Response to Comments Received During the 60-Day Comment Period.”</i></p>	<p>102</p>
28	<p><b>Farmworkers and other outdoor workers are left unprotected and are allowed to work at the very edge of fumigated fields. Farmworkers must not be excluded from this pesticide regulation.</b></p> <p><i>This comment is outside of the scope of the modifications proposed during the 15-day comment period. See response to comment no. 71 in Attachment A titled “Summary and Response to Comments Received During the 60-Day Comment Period.”</i></p>	<p>102, 178</p>
29	<p><b>The DPR proposal to remove existing limits on the use of 1,3-D, allowing Californians to breathe much more 1,3-D than other state toxicologists say is safe, highlights the dangers to which farmworkers are routinely exposed. It is outrageous that the state would allow farmworkers—whose labor was judged “essential” during the pandemic—to be routinely exposed to highly toxic pesticides, which could be replaced by organic practices.</b></p> <p><i>This comment is outside of the scope of the modifications proposed during the 15-day comment period. See responses to comment nos. 68, 71, and 79 in Attachment A titled “Summary and Response to Comments Received During the 60-Day Comment Period.”</i></p>	<p>119, 122, 162, AA1-AA1880, B101, B102, B104, S1-S4, S15, S17-S19, S21-S23, S29, S32, S33, S35, S38, S40-S45, S47-S56, S59, S61-S84, S90, S91, S93-S106</p>
30	<p><b>The proposed emissions reduction measures will be difficult to enforce. How will 50% moisture and 24” injection depth be monitored and enforced across large fumigation plots, especially given</b></p>	<p>102</p>

	<p>the scarcity of water and the presence of rocks and tree roots impeding 24” injection? How has the reliability of the three proposed methods for checking soil moisture been evaluated? How will injection depth be verified in inspections and investigations?</p> <p><i>This comment is outside of the scope of the modifications proposed during the 15-day comment period. See response to comments no. 74 in Attachment A titled “Summary and Response to Comments Received During the 60-Day Comment Period.”</i></p>	
31	<p>The proposed measures intended to reduce emissions will be difficult to measure or enforce, such as requiring specified minimum soil saturation levels and injection depths across large, rocky fields up to 80 acres in area, with inadequate inspection provisions.</p> <p><i>This comment is outside of the scope of the modifications proposed during the 15-day comment period. See response to comment no. 74 in Attachment A titled “Summary and Response to Comments Received During the 60-Day Comment Period.”</i></p>	118
32	<p>The requirements for keeping a running tally of 1,3-D applications at the local township level and enforcing a township cap lead to inconsistent enforcement. Until a ban is in place, the Department should take over the duty for maintaining this real-time 1,3-D use inventory and enforcing a health protective use cap by reviewing all 1,3-D Notices of Intent to determine whether or not they should be granted. 1,3-D use reports should then be required to be submitted to both counties and DPR on the date of fumigant application. Any business with the technical expertise to conduct fumigations is clearly capable of submitting both Notices of Intent and pesticide use reports online. DPR can then use spreadsheets to keep a running tally of adjusted total pounds and total pounds used per township and hot spots within townships.</p> <p><i>This comment is outside of the scope of the modifications proposed during the 15-day comment period. See response to comments no. 79 in Attachment A titled “Summary and Response to Comments Received During the 60-Day Comment Period.”</i></p>	102
33	<p>This approach ignores combined exposures, in spite of evidence of synergistic defects for carcinogenicity, not to mention for associated health harms. This approach separates the specific harms to the specific group from general environmental harms, which also have synergistic effects.</p> <p><i>This comment is outside the scope of the modifications proposed during the 15-day comment period.</i></p>	111

34	<p><b>A few key statements gleaned from the DPR’s documents: “In their 1,3-D human health risk assessment, US EPA acknowledges that the current state of the science does not allow for modeling of cumulative exposures from neighboring fumigant applications. We concur with this view (DPR’s own words!), and further down that page, “a possibility of acute bystander exposures...remains“.</b></p> <p><i>This comment appears to be outside the scope of the modifications proposed during the 15-day comment period. That said, the document cited in the comment is outdated (the document referred to in this comment is from 2016). DPR has developed a model, AERFUM, the Air Exposure and Risk model for Fumigants, for predicting ambient concentrations of soil fumigants. Numerous documents relied upon in this rulemaking package, including the new document relied upon “Modeling the high detections of 1,3-Dichloropropene in DPR’s Air Monitoring Network” by Luo and Uyeda, 2023, show that the current state of the science does allow for modeling of multiple nearby fumigant applications.</i></p>	111, T107
35	<p><b>“DPR has not identified any feasible alternatives..” and cites costs to small businesses, but provides no evidence of effort at developing less harmful alternatives, even though such efforts are underway.</b></p> <p><i>This comment is outside of the scope of the modifications proposed during the 15-day comment period. See responses to comment nos. 87 and 92 in Attachment A titled “Summary and Response to Comments Received During the 60-Day Comment Period”</i></p>	111
36	<p><b>Elimination of the use of the pesticide 1,3-D is urgently needed because this cancer-causing soil fumigant is highly drift prone, with long-term air levels greatly exceeding the Proposition 65 Safe Harbor level at all DPR’s air monitoring network sites and short-term spikes in air levels posing dangers to infants and the elderly.</b></p> <p><i>This comment is outside of the scope of the modifications proposed during the 15-day comment period. See responses to comment nos. 68 and 86 in Attachment A titled “Summary and Response to Comments Received During the 60-Day Comment Period.”</i></p>	102, 161-163, 165, T134, T139, T140, S24-S28, S57, S92
37	<p><b>California should be working towards rapidly eliminating use of 1,3-D and accelerating the adoption of alternative practices, which are used successfully by organic producers.</b></p>	102

	<i>This comment is outside of the scope of the modifications proposed during the 15-day comment period. See responses to comment nos. 86 and 92 in Attachment A titled “Summary and Response to Comments Received During the 60-Day Comment Period.”</i>	
38	<b>You need to phase out this proven carcinogen.</b>  <i>This comment is outside of the scope of the modifications proposed during the 15-day comment period. See response to comment no. 86 in Attachment A titled “Summary and Response to Comments Received During the 60-Day Comment Period.”</i>	164, T132
39	<b>No more deadly pesticides.</b>  <i>This comment is outside of the scope of the modifications proposed during the 15-day comment period. See response to comment no. 85 in Attachment A titled “Summary and Response to Comments Received During the 60-Day Comment Period.”</i>	172, 175, T136
40	<b>These fumigants pose unreasonable adverse effects on humans and the environment. Their registrations should be cancelled.</b>  <i>This comment is outside of the scope of the modifications proposed during the 15-day comment period. See response to comment no. 85 in Attachment A titled “Summary and Response to Comments Received During the 60-Day Comment Period.”</i>	102, AA1-AA1880, B101-B104
41	<b>Fumigation is a pesticide and disease control mainstay is unsustainable and the longer you postpone eliminating it, the longer it will take to find the solutions to restore our soil health and change our cropping systems to re-diversify our food systems.</b>  <i>This comment is outside of the scope of the modifications proposed during the 15-day comment period. See responses to comment nos. 85 and 92 in Attachment A titled “Summary and Response to Comments Received During the 60-Day Comment Period.”</i>	T107
42	<b>I find it appalling that you would favor the science of the pesticide chemical manufacturer over OEHHA, over the science of 34 European countries that have already previously banned this. You must rewrite the regulation of 1,3-D for all the reasons previously stated.</b>  <i>This comment is outside of the scope of the modifications proposed during the 15-day comment period. See responses to comment nos. 68 and 86 in Attachment A titled “Summary and Response to Comments Received During the 60-Day Comment Period.”</i>	T130



43	<p><b>Please protect our farm workers and our environment by supporting sustainable practices and banning harmful products.</b></p> <p><i>This comment is outside of the scope of the modifications proposed during the 15-day comment period. See responses to comment nos. 71, 85, and 92 in Attachment A titled “Summary and Response to Comments Received During the 60-Day Comment Period.”</i></p>	B102
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