

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

Section 6448.4 (Annual 1,3-Dichloropropene Report)

No.	Comment/ <i>Response</i>	Commenter
1	<p>As for what the Department of Pesticide Regulation (DPR) has added in this second modification, we support the addition of the specification that the annual report for 1,3-dichloropropene (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. We do not however support 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 call for narrowing this exception to “The report release 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.</p> <p><i>The October 1st timeline is based on the normal laboratory timeline and the expected required analysis. The phrase “as soon thereafter as is reasonably practicable” allows for any delays in laboratory analysis, additional data analysis that may be deemed necessary, and any other delays in (Pesticide Use Report) PUR data processing. This is consistent timing for DPR to receive and evaluate data and write the report.</i></p>	202-204, 210, 211
2	<p>We remain convinced that the scope of the report also needs to be extended beyond the 10 highest use townships. At minimum it should include all highest use townships in each county and span multiple counties. As noted in rulemaking documents, over 90% of use is concentrated in 13 counties, including ours.</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 “Summary and Response to Comments Received During the 60-Day Comment Period.”</i></p>	202-204, 210, 211
3	<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.</p>	202-204, 210, 211

	<i>This comment is outside of the scope of the modifications proposed during the second 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>	
4	<p>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.</p> <p><i>Summaries of the 1,3-D pesticide use data will be provided to the public on a quarterly basis. See response to comment no. 1.</i></p>	204

General Comments

No.	Comment/Response	Commenter
5	<p>The California 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 DPR 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. The minor changes to amend the state’s earlier proposal are woefully inadequate.</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>	201, 205-207
6	<p>These and other soil fumigants not only pose severe health threats to farmworkers and bystanders, but also threaten soil and water ecosystems. In contrast, organic production seeks to build healthy soils that resist plant pathogens, making fumigation unnecessary. Thus, these fumigants pose unreasonable adverse effects on humans and the environment. Their registrations should be cancelled.</p> <p><i>This comment is outside of the scope of the modifications proposed during the second 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>	201, 205-207
7	<p>We continue to call on you to withdraw the environmentally racist policy your department has put forward for the cancer-causing fumigant pesticide 1,3-D.</p>	202, 203, 209, 210

	<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. 86 in Attachment A titled “Summary and Response to Comments Received During the 60-Day Comment Period.”</i></p>	
8	<p>The second set of modifications to your draft regulation of 1,3-D adds little to protect our communities from this drift-prone, carcinogenic, toxic air contaminant. While we have concerns about the new modifications, detailed below, we are absolutely outraged by what you have not added: the Office of Environmental Health Hazard Assessment (OEHHA) lifetime cancer warning exposure level for 1,3-D established last year at an average of 3.7 micrograms per day, the equivalent of breathing air with the average 1,3-D concentration of 0.04 parts per billion. Despite overwhelming public response you received – we estimate well over 90%, based on DPR-posted public comments – to use OEHHA’s scientifically derived level as the target for the regulation, DPR refuses to even comment or acknowledge the existence of OEHHA’s 1,3-D No Significant Risk Level (NSRL).</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. 68 in Attachment A titled “Summary and Response to Comments Received During the 60-Day Comment Period.”</i></p>	202-204, 209-211
9	<p>I live in the San Joaquin valley and I hope you can make stronger buffer zones for TELONE but also work on rules for minimizing the use of this fumigant. Residents, children and workers all have exposure; sometimes for many hours above 8 hours because of where we live and also for the exposure to multiple exposure- Our CA notification system is failing our community and our children and if you don’t make changes we will continue To see sick adults with Cancer and children with birth defects and learning disabilities. Sick adults and sick children have a cost on the stare, our families and our nation.</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. 71 in Attachment A titled “Summary and Response to Comments Received During the 60-Day Comment Period.”</i></p>	208