

TO: California Air Resources Board, CARB *[via internet portal]*

SUBJECT: 2022 San Joaquin Valley 70 ppb Ozone State Implementation Plan

Dear CARB Board and Staff:

At your meeting scheduled for January 26, 2023 you will be considering adopting the subject State Implementation Plan (SIP), along with the aggregate emission reduction commitment in the accompanying CARB Staff Report. I am writing to request you to revise the emission reduction commitment, by further increasing reductions of emissions from the pesticide 1,3-Dichloropropene (1,3-D). Once you have made that revision, I request that you adopt the SIP and the revised emission reduction targets.

As currently written, the SIP contains many commendable elements. Firstly, it clarifies the overlapping jurisdictions of CARB and the Department of Pesticide Regulation (DPR) regarding pesticides classified as Toxic Air Contaminants. In general terms, CARB sets the regulatory targets for allowable emissions of pesticides that are classified as Toxic Air Contaminants and that contribute to ozone generation. Then it is DPR's mandate to implement restrictions on sales and use of those pesticides to achieve CARB's targets.

The SIP includes emissions targets for one pesticide classified as a Toxic Air Contaminant: 1,3-Dichloropropene (1,3-D). This pesticide is used to fumigate soil before planting certain crops including almonds and strawberries. As a reactive organic gas, 1,3-D contributes to generation of ozone, which is the primary focus of the SIP. But all regulators should acknowledge an additional health risk: 1,3-D is a potent carcinogen.

Within the staff report that accompanies the SIP, Table 9 commits CARB to reduce reactive organic gas (ROG) emissions due to 1,3-D by 0.4 tons per day in 2037. This commitment is a welcome first step towards measuring and reducing air pollution from pesticides. However, CARB needs to do more. **It is CARB's responsibility to set reduction targets based on what is needed to achieve ozone standards.** Instead, CARB merely asked DPR to estimate reductions that would result from DPR's already-drafted 1,3-D regulations, which the staff report refers to as the "Pesticide Measure":

"Since the September 2022 hearing, CARB has coordinated with DPR to obtain their quantified estimated emissions reductions associated with the Pesticide Measure. These expected emissions reductions (0.4 tpd ROG in the San Joaquin Valley in 2037) are included as part of CARB's aggregate emission reduction commitment for the San Joaquin Valley, as shown below in Table 9."

[source of quote: page 18 of the staff report]

I recognize that CARB staff cannot be experts on "reasonably available control measures" for every source of ROGs. So, I understand that your first inclination was to ask DPR. Unfortunately, the fact is, DPR's draft regulation for 1,3-D is inadequate. Most notably, DPR's draft regulation is designed to achieve an insufficient cancer-risk target that is 14 times less

protective than the 1,3-D target set by experts within California's Office of Environmental Health Hazard Assessment (OEHHA). In addition, DPR admits that its draft regulation is designed to protect only "non-occupational bystanders" such as householders. The draft regulation fails to quantify or address risks to farmworkers who work near fields fumigated with 1,3-D.

My colleagues and I will continue to work to improve DPR's draft regulation. Meanwhile, rather than allow DPR to set overly-conservative targets based on an inadequate draft regulation, **CARB itself should set targets based on what California needs to achieve acceptable levels of ozone.** Then, it is DPR's job to determine how to modify 1,3-D use to achieve CARB's emissions standards.

Pesticide pollution is a grave environmental injustice that disproportionately impacts California's Latinx farmworker communitiesⁱ. I gratefully acknowledge the following commitment within CARB's staff report:

"Going forward, CARB will continue to ... discuss with communities what actions will be most effective to respond to their priority needs."

Setting a bold standard for reducing emissions from 1,3-D is an essential step towards keeping that commitment.

In summary, I request that you revise the emission reduction commitment, by further increasing reductions of emissions from the pesticide 1,3-D. Once you have made that revision, I request that you adopt the SIP and the revised emission reduction targets.

Yours sincerely,

Michael Zeiss, Ph.D.
Former DPR scientist

ⁱ Within the 11 California counties that have majority Latinx populations, the quantity of 1,3-D used, measured as pounds applied per county resident, is 10 times higher than 1,3-D use within the 25 counties with the lowest Latinx populations.