



Julie Henderson
Director

MEMORANDUM

Yana Garcia
Secretary for
Environmental Protection

TO: Karen Morrison
Chief Deputy Director

FROM: Julie Henderson
Director
916-445-4000

DATE: March 6, 2024

SUBJECT: RISK MANAGEMENT DIRECTIVE FOR OCCUPATIONAL BYSTANDER
CANCER RISK FROM 1,3-DICHLOROPROPENE (1,3-D)

This document outlines the Department of Pesticide Regulation's (DPR's) risk management decision regarding potential cancer risks to occupational bystanders from the use of 1,3-D. This document supersedes any previous DPR decision with respect to such risks. On December 13, 2023, the Office of Environmental Health Hazard Assessment (OEHHA) transmitted the attached health-based recommendations to DPR consistent with Food and Agricultural Code (FAC) sections 12980 and 12981 (Recommendations). The Recommendations provide OEHHA's assessment of potential cancer risks to occupational bystanders from the use of 1,3-D. DPR based this decision on OEHHA's Recommendations.

Prior to finalizing this decision, DPR consulted with OEHHA, the California Air Resources Board, and air pollution control districts or air quality management districts in the affected counties in accordance with FAC section 14023(f). DPR also consulted with the California Department of Food and Agriculture. Comments received from the consulting agencies on the proposed decision and DPR's responses are enclosed.

On September 8, 2021, the First District Court of Appeal affirmed the May 2018 decision of the Alameda County Superior Court in *Vasquez v. DPR* finding that DPR's township cap program constituted an underground regulation. DPR was ordered to adopt regulations addressing potential cancer risks to bystanders from the use of 1,3-D consistent with the Administrative Procedure Act (APA) and FAC sections 12980 and 12981. DPR subsequently proposed regulations addressing acute and cancer risks to residential bystanders in November 2022. The regulations were finalized in November 2023 and are effective as of January 1, 2024 (OAL Regulatory Action Number: 2023-1107-02S). In December 2022, California Rural Legal Assistance filed a legal motion challenging DPR's compliance with the writ arguing, among other things, that DPR's residential bystander regulations do not address potential cancer risks to occupational bystanders. In March 2023, the Alameda County Superior Court ordered DPR to adopt regulations specifically addressing cancer risks to occupational bystanders consistent with the APA and FAC sections 12980 and 12981.

The OEHHA Recommendations provide that, for certain 1,3-D applications, there is a need for additional control measures, beyond those established by DPR's residential bystander

Karen Morrison
March 6, 2024
Page 2

regulations, to reduce 1,3-D air concentrations to or below the level that addresses cancer risks to occupational bystanders: 0.21 parts per billion (ppb) or below over five days per week, eight hours per day, for forty years. DPR finds that additional control measures are necessary to sufficiently reduce exposures to this level.

Consistent with FAC sections 12980, 12981, and 14024(a), please direct staff to develop proposed regulatory language jointly and mutually with OEHHA based on the Recommendations to establish control measures that address cancer risks to occupational bystanders from the use of 1,3-D by limiting exposure to the level described above.

Attachments