

Attachment 2 – DPR 22-001 Public Comments and DPR Responses from the 15-day comment period

After noticing the original proposed regulatory text on February 25, 2022, DPR made changes to the regulations in response to comments received. On October 5, 2022, DPR noticed modifications to the originally proposed text and held a 15-day comment period to receive comments pertaining to the modifications. During the 15-day comment period, DPR received comments outside of the scope of the proposed modifications or that duplicated comments provided during the initial 60-day comment period held from February 25, 2022 to April 26, 2022. DPR will only provide a response to comments that directly refer to the modifications proposed during the 15-day comment period held October 5-21, 2022.

No.	Comment and Response	Commenter	Topic
1	<p>Restatement of comments submitted during original comment period in April 2022.</p> <p><i>This comment is outside of the scope of the modifications proposed during the 15-day comment period. See responses to comments in Attachment #1 titled “DPR 22-001 Public Comments and DPR Responses from the 60-day comment period”.</i></p>	23B, 25A, 25B, 25C, 29B	General
2	<p>The loss of neonicotinoids will increase our reliance on contact insecticides and limit our chemical modes of action. Without the option to rotate with neonicotinoids, we increase the risk of developing pesticide resistance to the ever-shrinking available pesticide classes. Neonics help prevents pesticide resistance through our strategic Integrated Pest Management (IPM) program.</p> <p><i>This comment is outside of the scope of the modifications proposed during the 15-day comment period. See responses to comments in Attachment #1 titled “DPR 22-001 Public Comments and DPR Responses from the 60-day comment period.”</i></p>	19A	General
3	<p>It should be noted that research has shown that honeybee populations are under significant stress because of a decline in bee habitat, hive infestations of Varroa mites and the transport of hives. The combined impact of these stresses are arguably more significant contributors in the decline of honeybees than exposure from neonicotinoids used in accordance with label directions.</p> <p><i>This comment is outside of the scope of the modifications proposed during the 15-day comment period. See responses to comments in Attachment #1 titled “DPR 22-001 Public Comments and DPR Responses from the 60-day comment period.”</i></p>	25F	General
4	<p>A substantive requirement of the California Environmental Quality Act (CEQA) is the assessment of a project’s cumulative impacts on the environment. This concept considers the incremental effect a proposed approval may have when viewed in connection with past, current, or future approved</p>	28F	General

	<p>projects. While recognizing that the Department’s regulatory program is exempt from some of the usual CEQA requirements, any certified program remains subject to other provisions in CEQA such as the policy of avoiding significant adverse effects on the environment were feasible. In every case, a public agency is required to make at least a preliminary search for potential cumulative environmental effects, and, if any such effect were perceived, at least a preliminary assessment of its significance.</p> <p><i>This comment is outside of the scope of the modifications proposed during the 15-day comment period. Please refer to DPR’s environmental analysis in the Initial Statement Of Reasons (ISOR) under the section titled, “Identification of Any Significant Adverse Environmental Effect that Can Reasonably be Expected to Occur from Implementing the Proposal.”</i></p>		
5	<p>We ask that DPR take into consideration the amount of outreach that will be required by DPR and our county agricultural commissioners to educate farmers, PCAs, applicators, and others on the details of the new application rates and conditions so they can be implemented. We request that DPR establish a realistic implementation timeline that will allow for this outreach. With this in mind, we ask that DPR delay the implementation of the regulations after the final adoption of the rule for at least six months so DPR and agricultural commissioners can conduct outreach and education efforts, so stakeholder understand the regulations while not placing their operations at economic or legal risk. We would also ask that DPR adopt a six-month moratorium or delay in enforcement actions after the implementation period to allow DPR and agricultural commissioner’s time to further interact one-on-one with impacted stakeholders in a consultation mode on the implementation of the final rule.</p> <p><i>DPR plans to adopt the regulations and prescribe a later effective date of January 1, 2024 to allow for sufficient time to provide education and outreach relative to the new requirements.</i></p>	33A	General
6	<p>Given the significant and complex changes that DPR is making to the neonicotinoid labels we are requesting that DPR exercise regulatory discretion in the enforcement of the regulation for one crop cycle after new labels are released so growers can become familiar with the changes in the regulation.</p> <p><i>See response to comment #5.</i></p>	25E	General
7	<p>Suggest that DPR includes control measures for non-agricultural use. 25.6% of California is classified as Agricultural land. To only protect a quarter of California’s land from detrimental pesticides is a band-aid fix approach. If DPR is truly concerned about protecting our bee population, DPR should take a more holistic, top-down approach and apply control measures for non-agricultural use as well.</p>	21A	Scope of the proposed regulations

	<i>This comment is outside of the scope of the modifications proposed during the 15-day comment period. See responses to comments in Attachment #1 titled “DPR 22-001 Public Comments and DPR Responses from the 60-day comment period.”</i>		
8	<p>The suggestion that DPR includes language to protect CA native plant species in non-agricultural control measures. The inclusion of native California plant species is pivotal in the protection of California’s bee population, considering agricultural landscapes only account for a small percentage of the land in California. List of CA natives to consider including: Frikart’s aster, Ray Hartman’s California lilac, Western redbud, California poppy, Blanket flower, Goodwin Creek lavender, Catmint, Russian sage, Germander sage, and Cascade Creek goldenrod.</p> <p><i>This comment is outside of the scope of the modifications proposed during the 15-day comment period. See responses to comments in Attachment #1 titled “DPR 22-001 Public Comments and DPR Responses from the 60-day comment period.”</i></p>	21B	Scope of the proposed regulations
9	<p>Most uses of neonicotinoids in non-agricultural settings are unnecessary, yet they are incredibly widespread. DPR monitoring detected imidacloprid—the most common neonicotinoid in non-agricultural settings—in 92% of water samples taken in urban areas of southern California and 58% of urban samples in northern California. Studies on humans and animals have connected neonicotinoids to negative reproductive and developmental impacts. We should avoid these risks by simply eliminating neonicotinoid use. Increasing regulation of these pesticides outside of strictly agricultural settings allows the state a broader approach to protecting important pollinators, water sources and humans.</p> <p><i>This comment is outside of the scope of the modifications proposed during the 15-day comment period. See responses to comments in Attachment #1 titled “DPR 22-001 Public Comments and DPR Responses from the 60-day comment period.”</i></p>	21C	Scope of the proposed regulations
10	<p>DPR overlooks mounting evidence that Californians are chronically exposed to neonics on a vast scale, threatening considerable health harms, particularly to children. While CDC monitoring data from 2015-2016 found neonics in the bodies of about half the U.S. population, a more recent study of 171 pregnant women in California and several other states found the pesticides in over 95% of participants, with higher rates in Hispanic women. Researchers generally found neonic levels above those observed by CDC. Concerningly, both frequency and the level of neonic detections steadily increased over the four-year study, echoing other research showing a significant spike of neonics in the bodies of wild deer in just the last two years.</p>	29C	Scope of the proposed regulations

	<p>Neonics are neurotoxic, targeting nerve receptors prevalent in sensitive areas of our brain and central nervous system that play a critical role in early growth and development. Research links neonic exposures during pregnancy to developmental harms, including birth defects of the heart and brain, autism-like symptoms, and other neurological conditions. Adult exposures are also associated with decreased testosterone and sperm count and abnormal sperm, and animal studies link neonics to thinning of key brain areas, birth defects, and reproductive abnormalities. If DPR were to consider neonics’ considerable health risks and exposure among pregnant women, DPR would need to enact far more stringent restrictions on neonic use.</p> <p><i>This comment is outside of the scope of the modifications proposed during the 15-day comment period. See responses to comments in Attachment #1 titled “DPR 22-001 Public Comments and DPR Responses from the 60-day comment period.”</i></p>		
11	<p>The proposed regulations fail to address what may be two of the largest sources of neonic pollution in the state: residues from neonic-treated crop seeds and non-agricultural, outdoor uses of neonic products. Except for non-agricultural treatments by certified applicators, none of these neonic uses are tracked in the Pesticide Use Reporting system. DPR’s policy regarding these uses, to date, has been “out of sight, out of mind,” despite a clear legal mandate to adopt any control measures necessary to protect pollinator health from neonic use, whatever the source.</p> <p>DPR recently submitted comments to the U.S. Environmental Protection Agency (USEPA) regarding a petition to regulate treated seeds at the federal level. DPR urged USEPA to address the loophole for treated seeds in a way that facilitates state-level tracking and mitigation of treated seeds. However, USEPA denied the petition without addressing the bulk of concerns raised in DPR’s comments. It is, therefore, up to DPR to regulate treated seeds in a manner that adequately protects pollinators and Californians from the widespread effects of treated seeds.</p> <p>Additionally, last month, Governor Newsom vetoed legislation (AB 2146), that would have prohibited harmful and unnecessary uses of neonics on lawns and gardens. DPR has so far ignored these uses in its assessment of neonics’ harms, but Governor Newsom’s veto message indicates that DPR will initiate a review of non-agricultural uses in 2023. DPR’s review must be prompt and account and mitigate for the full suite of harmful effects from these needless uses to pollinators, people, and California’s broader environment.</p>	29D	Scope of the proposed regulations

	<p><i>This comment is outside of the scope of the modifications proposed during the 15-day comment period. See responses to comments in Attachment #1 titled “DPR 22-001 Public Comments and DPR Responses from the 60-day comment period.”</i></p>		
12	<p>The regulation addresses all neonicotinoids in the same collective manner without addressing the effect of each active ingredient separately. This categorical approach fails to properly analyze which chemistry is causing an environmental impact. Given the severe economic impact of these regulations to the strawberry industry, the minimal acreage treated by our industry and the low amount of thiamethoxam used in California compared to imidacloprid, this also raises a question of whether these restrictions to all four neonicotinoids, particularly thiamethoxam, are necessary regulations. It is clear from the Department’s Neonicotinoid Risk Determination that it has chosen to address imidacloprid, thiamethoxam, clothianidin and dinotefuran in a collective fashion rather than addressing each active ingredient and its environmental risk separately. The Department is proposing to regulate all these ingredients without a determination of which active ingredient is having an effect. Indeed, the Risk Determination document points out that acceptable pollen colony feeding studies were not available for thiamethoxam, necessitating the use of another neonicotinoid as a surrogate. Moreover, agencies are required to demonstrate that proposed regulations are reasonably necessary to carry out the purpose for which they are proposed, and they must demonstrate this necessity by substantial evidence considering the totality of the record. We remain concerned that the proposed regulation is far more restrictive than necessary.</p> <p><i>This comment is outside of the scope of the modifications proposed during the 15-day comment period. See responses to comments in Attachment #1 titled “DPR 22-001 Public Comments and DPR Responses from the 60-day comment period.”</i></p>	28H	Scientific background
13	<p>DPR proposes several modifications to its proposed regulations. Likely the most substantive is its proposal to allow use of thiamethoxam on legumes. This change is based on DPR’s determination that certain data used to calculate its nectar conversion factor was faulty, necessitating an adjustment in the factor from 11:1 to 6:1. Applying the reduced conversion factor, DPR found that the estimated concentrations in nectar and pollen were below it’s established No Observed Effect Concentration (NOEC). DPR’s decision to allow use of thiamethoxam on legumes—regardless of the conversion factor used— ignores important routes through which bees are exposed to thiamethoxam. Bees and other pollinators are exposed to neonics not just from pollen and nectar, but through contaminated soil, surface water, guttation fluid, and other sources. These sources of neonic contamination are critically relevant to the question of pollinator health as the permanent nerve damage caused by neonics is time-cumulative, meaning that neonic exposures, no matter how small, add up to the total health burden over time. Because DPR’s analysis already fails to capture the aggregate amount of thiamethoxam and</p>	29A	Scientific background

	<p>other neonics to which bees are exposed, DPR cannot determine with confidence that the NOEC is not exceeded. In all likelihood, were DPR to consider all relevant pathways, the time-cumulative burdens of neonic poisoning, and the cumulative effect on pollinator health of common real-world exposure to multiple neonic chemicals, controls on neonic use in legume crops (as well as others) would need to be made more stringent, not less.</p> <p><i>During the 60-day comment period, DPR received a comment noting that there was contamination in a set of samples DPR used to assess risks for the legume vegetables crop groups. DPR reviewed the original study report and confirmed that the data from these samples should not be included in its assessment of risk. As such, DPR recalculated the data used to assess risks for legumes and found that thiamethoxam could be applied to legumes under the application rate and timing restrictions described above. DPR documented its analysis in a September 2022 memorandum titled, “Updated Calculations for Conversion Factor Method to Use Bee-collected Soybean Nectar Residues in Neonicotinoid Risk Determination.” The analysis is based on the previously defined scope of the proposed rulemaking. See DPR’s responses to comments in Attachment #1 titled “DPR 22-001 Public Comments and DPR Responses from the 60-day comment period” for additional information on the scope of the proposed rulemaking.</i></p>		
14	<p>The economic analysis does not fully consider the potential impacts associated with having to rely on emergency control measures to stop infestations of important pests. There is a serious concern that in the event of an emergency infestation in California there may not be sufficient supply of imidacloprid to respond for the emergency need, thereby exacerbating the adverse crop and associated economic impact to California growers. Under the current global supply chain constraints, quickly producing imidacloprid above forecast for emergency authorizations is almost impossible.</p> <p><i>This comment is outside of the scope of the modifications proposed during the 15-day comment period. See responses to comments in Attachment #1 titled “DPR 22-001 Public Comments and DPR Responses from the 60-day comment period.”</i></p>	23A	Economic Impact/ Exemptions [Section 6990(c)]
15	<p>With regards to the section 18 emergency exemption under section 6990(c)(4), the term “active Section 18 emergency exemption” is confusing. It is unclear if this applies to an active Section 18 at the time of the final adoption of this regulation or if it applies to future Section 18s that may be approved to address an emergency. We recommend the term “active” be removed to avoid this confusion, or that DPR clarify that the term “active” also applies to any future Section 18 related to these neonicotinoid regulations.</p>	33B	Exemptions [Section 6990(c)]

	<p><i>Subsection 6990(c)(4) exempts certain neonicotinoid applications from the regulation when allowed under an active Section 18 emergency exemption. Section 18’s are issued with an expiration date. The term “active” refers to Section 18’s that have not yet expired. This applies to a current and future approved Section 18. Without the term “active” an applicator may think that an expired Section 18 is still exempt from the regulations.</i></p>		
16	<p>The revised regulations include an exemption for an application allowed under an “active Section 18 emergency exemption.” We require some clarification on what is considered an active Section 18 emergency exemption and whether strawberries will be allowed to utilize this exemption for Lygus infestations given that this is a historical pest problem. The emergency, economics, and lack of alternatives are all, as noted above and in our prior comments, clear and verified.</p> <p><i>See response to comment #15. Section 18’s can only be approved for uses without a tolerance established under 40 CFR part 180. Since both imidacloprid and thiamethoxam have established strawberry tolerances, Section 18s could only be considered for dinotefuran and clothianidin.</i></p>	28I	Exemptions [Section 6990(c)]
17	<p>Support DPR’s intention to add subsection 6990(c)(5) which provides an exemption for an application of any neonicotinoid authorized for research purposes to support potential amendments to these regulations. This ensures that DPR adhere to updated science and commitment to flexibility in the ever-changing environment that is inherent on California farms.</p> <p><i>DPR acknowledges this comment.</i></p>	32B	Exemptions [Section 6990(c)]
18	<p>It is important to note that the success of the Pierce’s Disease Control Program is not the eradication of Glassy-Winged Sharpshooter (GWSS). This pest is still very present in California. The success of the program is that it manages GWSS, by knocking down populations of GWSS when detected in traps. With this proposed regulation eliminating the most effective tool to deal with GWSS, an increase in GWSS populations and additional spread of Pierce’s Disease is very predictable. If this proposal is not amended to exempt these uses, we request that a Standardized Regulatory Impact Analysis (SRIA) be completed to reflect the potential loss of vineyard acreage and the economic effect this proposed regulation would have on California’s iconic wine industry.</p> <p><i>This comment is outside of the scope of the modifications proposed during the 15-day comment period. See responses to comments in Attachment #1 titled “DPR 22-001 Public Comments and DPR Responses from the 60-day comment period.”</i></p>	24C	Grapes, a crop subject to 6990.1 & Economic Impact
19	<p>The modifications in subsection 6990(c) are too limited in scope. Therefore, please add the following to subsection 6990(c): “(6) Applications made under the Pierce's Disease Control Program to treat the glassy-winged sharpshooter.” Without this exemption, this proposal could inadvertently result in</p>	24A, 30A, 31.1	Grapes, a crop subject to 6990.1

	<p>infestations of the glassy-winged sharpshooter; which can vector the deadly Pierce's disease in grapevines. If not properly managed, this would wipe out thousands of acres of California vineyards. This would have a devastating economic impact to the wine industry, measured in the tens if not hundreds of millions of dollars</p> <p>Additionally, please complete a more thorough fiscal analysis of this proposed regulation. DPR's current fiscal analysis includes no consideration of the potential cost to the wine industry. This threat is well-documented, and DPR needs to consider this in its analysis of the costs of this bill to California vineyards and our economy.</p> <p><i>This comment is outside of the scope of the modifications proposed during the 15-day comment period. See responses to comments in Attachment #1 titled "DPR 22-001 Public Comments and DPR Responses from the 60-day comment period."</i></p>	through 31.42	
20	<p>This regulation would effectively end the use of imidacloprid in treating GWSS-infested areas. This would produce one of two undesirable outcomes. First, the increased use of organophosphates or other alternatives which may be higher in toxicity than neonicotinoids; or second, an end to treatments, meaning populations of GWSS would flourish and spread Pierce's Disease to vineyards all over California. We appreciate that neither of these are DPR's goal with this proposal. However, the regulation would have significant, potentially catastrophic, consequences for California's grape and wine production due to the limits it would impose on GWSS treatments.</p> <p><i>This comment is outside of the scope of the modifications proposed during the 15-day comment period. See responses to comments in Attachment #1 titled "DPR 22-001 Public Comments and DPR Responses from the 60-day comment period."</i></p>	24B	Grapes, a crop subject to 6990.1
21	<p>Discourage DPR's regulation from mitigating the use of neonicotinoids on strawberries. These products are necessary to produce clean plant material in the nurseries to ensure viral diseases are not carried onto farms around the country.</p> <p><i>This comment is outside of the scope of the modifications proposed during the 15-day comment period. See responses to comments in Attachment #1 titled "DPR 22-001 Public Comments and DPR Responses from the 60-day comment period."</i></p>	20A	Strawberry, a crop subject to 6990.1
22	<p>Disapproval of the proposed regulations for strawberries and urge for DPR to reconsider the banning or limiting of already approved crop protection products.</p>	20C, 27E	Strawberry, a crop subject to 6990.1

	<p><i>This comment is outside of the scope of the modifications proposed during the 15-day comment period. See responses to comments in Attachment #1 titled “DPR 22-001 Public Comments and DPR Responses from the 60-day comment period.”</i></p>		
23	<p>This current proposal continues to prohibit the use of neonicotinoids during “bloom.” The CDFA economic analysis points out that bloom time restrictions seriously impact the strawberry industry. There is a timeframe during the regulatory “bloom” period where manual deflowering or petal removal occurs, removing the risk of pollinator attraction. This period is critical in controlling lygus, aphids and whiteflies in strawberries. Without some accommodation for application during the flower removal period this prohibition will result in increased crop infestations that will decrease yield and negatively impact the strawberry industry and potentially other neighboring crops as well. While it seems obvious to us that the current definition of bloom would not apply to a strawberry field where the flowers had been manually removed, we request that DPR clarify the regulation to exempt the flower removal practice from the definition of “bloom”.</p> <p><i>This comment is outside of the scope of the modifications proposed during the 15-day comment period. See responses to comments in Attachment #1 titled “DPR 22-001 Public Comments and DPR Responses from the 60-day comment period.”</i></p>	19C, 22A, 26B, 27D, 28A	Strawberry, a crop subject to 6990.1
24	<p>In parallel to removing bloom, only half of the strawberry varieties grown produce bloom through the season. Strawberries are categorized into two classes, day-neutral or short day. The blooms are diligently removed from day-neutral, and short day do not bloom during the summer and therefore pose zero allure to bees. DPR should provide recognition that "short day" strawberry plants grown in the nursery be considered "Not Attractive" to bees.</p> <p><i>This comment is outside of the scope of the modifications proposed during the 15-day comment period. See responses to comments in Attachment #1 titled “DPR 22-001 Public Comments and DPR Responses from the 60-day comment period.”</i></p>	19C, 22A, 27D	
25	<p>Neonics are vital for strawberry nurseries to control aphids and whiteflies, two known vectors of virus that affect strawberry plants. The production pipeline for strawberry nurseries relies on four years of increasing planting stock before it's economical to sell the plants. Starting from a single plant produced in vitro, each ensuing year increases the stock for the next season. If a virus is introduced at any point over the four-year period, those plants must be destroyed, and the trajectory of that pipeline is lost. The California strawberry fruit industry would be devastated for multiple years as the nurseries would have to rebuild stock from ground zero. This would likely take 2 to 3 years for the rebuilding process of nursery stock to take place. Thus, the economic impact to strawberry nurseries and their customers is tremendous.</p>	19B, 20B, 22B, 25B, 26A, 26B, 26C, 27A, 27C	Strawberry, a crop subject to 6990.1

	<p>The Florida strawberry industry is reliant on transplant nurseries around the country to grow and ship the supplies of plant material needed to establish the over 11,000 acres of strawberries grown during the winter months. California nurseries are a critical part in this process, as virtually all varieties used in Florida are sent initially to California to build the plant stock. In other words, one hundred percent of Florida’s nursery supply is reliant on clean plants which start their commercial propagation in California. The emphasis on having clean plant material in the nurseries is of paramount importance to ensure viral diseases are not carried onto farms around the country. The entomological and economic effects associated with DPR’s proposed regulations for the mitigation of neonicotinoids on strawberries would be devastating for not only the Florida strawberry industry but would also have a global impact as well. Without California nursery’s partnership in propagating the plants for Florida’s production, the Florida strawberry industry would cease to exist and result-in over a billion-dollar impact.</p> <p><i>This comment is outside of the scope of the modifications proposed during the 15-day comment period. See responses to comments in Attachment #1 titled “DPR 22-001 Public Comments and DPR Responses from the 60-day comment period.”</i></p>	28B	
26	<p>This current proposal would remove a critical piece of our crop protection program and could result in a catastrophic viral outbreak. This outbreak could result in incalculable economic damage to not only the California strawberry nursery industry but could have significant downstream effects to fruit producers in California, Florida, and other US states. Additionally, it would also cause crippling economic damage to Canadian and other international nurseries that rely upon plants produced in California for their own nurseries. Every acre of lost strawberry nursery production in the high-elevation nursery located in Siskiyou County would result in the loss of 20 acres of fruit production in California and 25 acres in Florida. Every acre of lost strawberry production in the low-elevation nursery located in the Central Valley could result in the loss of roughly 50 acres of nursery production in California and Canada which in turn would result in the loss of up to 1,250 fruit-producing acres in California and Florida. In DPR's economic impact statement the estimated economic loss is between 25 and 50 million dollars to the statewide industry. This grossly understates the economic impact and the ban of neonics could result in those levels of economic damage to the strawberry nursery industry alone.</p> <p><i>This comment is outside of the scope of the modifications proposed during the 15-day comment period. See responses to comments in Attachment #1 titled “DPR 22-001 Public Comments and DPR Responses from the 60-day comment period.”</i></p>	27B	Strawberry, a crop subject to 6990.1

27	<p>The regulatory definition of “bloom” is far too broad to apply to all commodities. In the case of strawberries, it fails to address the unique cultural practices implemented during the strawberry growing season. Recently, the Commission presented revised regulatory language to DPR, defining “bloom” in a manner that addressed two unique aspects of strawberry production that would provide solutions to this issue. First, in September, DPR stated that additional “scientific” justification for the bloom timeline is necessary to be able to include our proposed regulatory language. Pursuant to The Strawberry, History, Breeding and Physiology, written by George Darrow, a United States Department of Agriculture strawberry breeder and published by the New England Institute for Medical Research in 19663, the average period from flower opening to berry maturity is about 31 days and at midseason, with longer days and higher temperatures, five to six days less. It is crucial that the Department avail itself of crop information before implementation of a regulation with such a significant impact on a commodity.</p> <p>As a result, we are requesting to limit the strawberry bloom period to beginning thirty (30) days before harvest and continuing until harvest is completed. With this comment letter, we are providing scientific justification for this revision.</p> <p>The second solution is for the Department to acknowledge that bloom does not occur during a period of flower removal in Section 6990 (a)(1). As noted in “The production of strawberries in California”, published by the University of California, College of Agriculture, soon after flower or fruit stems appear, they are removed. This is because if the fruit is allowed to mature before the plants are fully established, there is a serious drain on their vitality, which may result in insufficient development of healthy plants. During this time, there is no risk to pollinators because of the growing practice to deflower the plant prior to application of the thiamethoxam.</p> <p>The current draft of these regulations already allows a modified definition of bloom for another crop. Based upon this scientific justification of California strawberry growing practices, we request that the regulation will be clarified to address our industry’s unique cultural practices that already mitigate the risk to pollinators.</p> <p><i>This comment is outside of the scope of the modifications proposed during the 15-day comment period. See responses to comments in Attachment #1 titled “DPR 22-001 Public Comments and DPR Responses from the 60-day comment period.”</i></p>	28D	Strawberry, a crop subject to 6990.1
28	Expressed concern that strawberries are included in Section 6990.1 Berries and Small Fruits. Unlike other berries, strawberries are not <i>[a typical food source for]</i> pollinators. Strawberries have been	28C, 28E	Strawberry, a crop subject to 6990.1

	<p>classified as moderately attractive by USDA. This means that strawberries are only attractive to pollinators under certain conditions. The Commission believes that these conditions are not present in California and is currently funding first-of-its-kind research with the Department to determine honeybee attractiveness in California.</p> <p>DPR also noted that strawberry residues were among the highest identified in the studies reviewed, causing a concern that strawberries remain a potential source of bee exposure to neonicotinoids. As noted above, this speculation ignores that strawberries are not a typical source of nectar and pollen for honeybees, and it also does not consider the work currently underway to document a visits to strawberry fields. DPR’s concern does not consider the exceptionally low use of neonicotinoids by this industry. DPR’s concern is clearly misplaced as the potential for exposure is small.</p> <p><i>This comment is outside of the scope of the modifications proposed during the 15-day comment period. See responses to comments in Attachment #1 titled “DPR 22-001 Public Comments and DPR Responses from the 60-day comment period.”</i></p>		
29	<p>Because this regulation removes an important crop protection tool during a critical phase of the strawberry production period it has a significant impact on resistance management. For strawberry growers, it is important to maintain a variety of registered products because, so few products actually become registered due to the small number of acres produced nationally, relative to other crops. CDFA, in its economic analysis, advised the Department that a case can be made for maintaining imidacloprid and thiamethoxam uses as tools since relatively few alternative chemicals are registered on strawberries. CDFA noted many examples of control failures due to whiteflies and aphids documented in agricultural production systems worldwide. The synergistic action of thiamethoxam with other chemicals such as novaluron and pyrethroids when applied in a tank mix (combination spray) are especially valuable in achieving greater levels of lygus control than individual sprays of these or other alternative chemicals, thereby reducing the total number of times individual sprays need to be applied. As a result, maintaining an effective chemical class such as neonicotinoids plays a more critical role in resistance management in strawberry production than on other crops because they may not be quickly replaced by a similarly effective product. This regulation, as drafted, prohibits the use of neonicotinoids by the strawberry industry when they need it most. The industry has few alternatives to the use of thiamethoxam to treat lygus. When the Department removes a crop protection tool, there is also an environmental impact due to increased use of replacement chemistries and the Department has an obligation to investigate and address this impact. Recent litigation has made it clear that the Department is required to perform a cumulative impact assessment when an environmental impact is identified. (PANNA, supra, 16 Cal.App.5th at p. 250.) A public agency’s failure to consider</p>	28G	Strawberry, a crop subject to 6990.1

	<p>cumulative impacts constitutes a prejudicial abuse of discretion. (Environmental Protection Information Center, Inc. v. Johnson (1985) 170 Cal. App. 3d 604, 625.)</p> <p><i>This comment is outside of the scope of the modifications proposed during the 15-day comment period. See responses to comments in Attachment #1 titled “DPR 22-001 Public Comments and DPR Responses from the 60-day comment period.”</i></p>		
30	<p>We request that DPR amend the application of soil applied imidacloprid to 0.5 lbs ai/A/season. We believe that 0.25 lbs ai/A/season in the citrus crop’s proposed application rate & timing restrictions guidelines is overly conservative in light of the fact that very little risk is shown under DPR’s evaluation at the full rate. The risk evaluation specific to citrus is within the margin of error and thus we believe it is within DPR’s ability to maintain the label rate. Furthermore, defaulting all the way to 0.25 lbs ai/A/season is an unnecessary response to the marginal risk at the full rate. Given DPR’s overly conservative risk assessment, we believe that a 0.5 lb. AI per acre of imidacloprid should be maintained for use on citrus.</p> <p><i>This comment is outside of the scope of the modifications proposed during the 15-day comment period. See responses to comments in Attachment #1 titled “DPR 22-001 Public Comments and DPR Responses from the 60-day comment period.”</i></p>	25D, 32A	Citrus