

FINAL STATEMENT OF REASONS AND PUBLIC REPORT
DEPARTMENT OF PESTICIDE REGULATION

Title 3. California Code of Regulations
Adopt Section 6448.5; Amend Sections 6000, 6448, 6448.2, 6448.4, 6624, and 6626
Pertaining to Health Risk Mitigation for 1,3-Dichloropropene

UPDATE OF THE INITIAL STATEMENT OF REASONS

The Department of Pesticide Regulation (DPR) has adopted section 6448.5 and amended sections 6000, 6448, 6448.2, 6448.4, 6624, and 6626 of title 3, California Code of Regulations (3 CCR). In summary, the proposed action restricts the use of 1,3-dichloropropene (1,3-D) to mitigate the potential 40-year working lifetime cancer risk to occupational bystanders¹. The proposed action establishes buffer zone distances (distances from the edge of a treated area where certain activities are restricted) and requires DPR to include an evaluation in the 1,3-D Annual Report of whether the 1,3-D air concentration in any township exceeds the acceptable level of 0.21 part per billion (ppb) and to develop appropriate measures to reduce exposures if target air concentration levels are exceeded. DPR also proposes to repeal the document “1,3-Dichloropropene Field Fumigation Requirements, Est. January 1, 2024,” and adopt the document “1,3-Dichloropropene Field Fumigation Requirements, Rev. January 1, 2026,” which is incorporated by reference in existing sections 6448, 6448.2, 6624, and 6626. This document is being incorporated by reference because it totals 54 pages in length and would be cumbersome, unduly expensive, and otherwise impractical to publish in the CCR.

The proposed regulatory action was noticed in the *California Regulatory Notice Register* on November 15, 2024.

During the 70-day public comment period, DPR received comments on the proposed action. The comments are discussed under the subheading “Summary and Response to Comments Received During the 70-Day Comment Period” of this Final Statement of Reasons. For the reasons stated below, DPR modified sections of the originally proposed text which are summarized under the subheading “Changes to the Text of Proposed Regulations.” Furthermore, additional documents were relied upon and added to the rulemaking file.

DPR received comments addressing the modified text during the 15-day public comment period. These comments are discussed under the subheading “Comments Received During the 15-Day Public Comment Period.” Following the 15-day comment period, DPR made one nonsubstantive change without regulatory effect to the regulation text, which is described below under the subheading “Nonsubstantive Change to the Text of Proposed Regulations Following the 15-Day Comment Period.”

Changes to the Text of Proposed Regulations

DPR modified the originally proposed text in section 6448, subsection (d). The originally proposed text stated that the proposed requirements for buffer zone distance and duration vary with the

¹ An occupational bystander is an individual working in the vicinity of fields treated with 1,3-D but is not directly handling, mixing, or applying the pesticide.

fumigation method, region, and crop. However, the originally proposed requirements for buffer zone distance and duration are the same for all regions and only vary with the fumigation method and crop. For clarity, DPR deleted “region” from the originally proposed text.

DPR also proposed the following modifications to “1,3-Dichloropropene Field Fumigation Requirements, rev. January 1, 2026,” the document incorporated by reference in the originally proposed text of sections 6448, 6448.2, 6624, and 6626:

- On pages 2 and 14, DPR changed the title of the Section 3 topic from “Descriptions of Allowed Fumigation Methods and Corresponding Maximum Application Block Size Tables” to “Descriptions of Allowed Fumigation Methods and Corresponding Minimum Setback Distance Tables.” In the originally proposed text, DPR amended the format of the setback tables (Table 2 through Table 9) to make them consistent with the existing table format established for other fumigants, which specifies the distance in the tables rather than application block size. However, when these amendments were made, DPR did not make corresponding changes to the titles to reflect the reformatting. Therefore, the modifications to the titles are necessary to reflect the new table format.
- On page 14, DPR modified the title of “Table 2. Maximum Application Block Size (Acres) For...” to “Table 2. Minimum Setback Distance (Feet) For....” DPR proposed the same modifications to the titles of Table 3 through Table 9. These modifications are necessary for the same reasons described above related to the amended table format and will also clarify that the unit of measurement of the setback distance is feet.
- On page 15, DPR modified the title for Table 2a to replace “Round up to nearest setback distance and application rate.” with “Round up to the nearest acreage and application rate.” This modification is necessary to make the titles consistent with the revised format and organization of the tables. For this same reason and to maintain consistency for all setback tables, DPR also made this modification to the titles of all setback tables on pages 16-53.
- On page 31, DPR proposed several corrections to setback distances in Table 5b. November–February applications in Inland counties for FFM 1224, 1225, 1226, and 1227. These corrections are necessary to make the setback distances consistent with the distances determined by DPR’s scientific analysis described in the following reports that are added to the rulemaking file as documents relied upon:
 - Luo, Yuzhou. 2022. "Modeling for mitigation measures to reduce acute exposure from 1,3-Dichloropropene, modeling approach #2," Department of Pesticide Regulation Report, September 12, 2022.
 - Luo, Yuzhou. 2023. Addendum: Modeling for mitigation measures to reduce acute exposure from 1,3-Dichloropropene, Revised setback tables, Department of Pesticide Regulation Report, April 3, 2023.

The specific changes are described below:

- The setback distance was changed from 100 feet to 200 feet for the combination of 250 lbs/ac application rate and 15 acres.
- The setback distance was changed from 200 feet to 300 feet for the combination of 300 lbs/ac application rate and 15 acres.

- The setback distance was changed from “not allowed” to 500 feet for the following combinations of application rate and acreage:
 - 240 lbs/ac and 60 acres
 - 230 lbs/ac and 65 acres
 - 230 lbs/ac and 70 acres
 - 220 lbs/ac and 75 acres
 - 210 lbs/ac and 80 acres
- On pages 40-43, the titles for Tables 7a-7d include “...for FFM 1243, 1245, and 1248, and 1259.” DPR changed the titles to “...for FFM 1243, 1245, 1248, and 1259.” to remove the unnecessary “and” between 1245 and 1248.
- On page 54, DPR modified Table 10 to add missing field fumigation method (FFM) codes and correct FFM group descriptions. In the originally proposed text, DPR added buffer zone distance and duration requirements for most 1,3-Dichloropropene fumigations that vary with fumigation method and crop, based on the Office of Environmental Health Hazard Assessment’s (OEHHA’s) recommendations that are being relied upon for this rulemaking action. OEHHA’s recommendations and the originally proposed buffer zone requirements in Table 10 inadvertently left out several FFM codes and two of the FFM group descriptions were partially switched. As a result, the FFM codes and FFM group descriptions in the originally proposed text are inconsistent with the existing FFM groups for setback distance requirements in Tables 2 through 9. To conform with the FFM groups for setback distance requirements in Tables 2 through 9, DPR is proposed the following specific modifications to Table 10:
 - FFM codes 1203, 1204, and 1205 were added as FFM codes that represent the FFM group description, “Standard nontarped and non-TIF tarp shallow (12 inch) methods.”
 - FFM code 1208 was added as an FFM code that represents the FFM group description, “Standard nontarped and non-TIF tarp deep (18 inch) methods.”
 - FFM code 1227 was added as an FFM code that represents the FFM group description, “24-inch injection methods.”
 - The FFM group description, “TIF methods – broadcast and drip,” was changed to “TIF methods – broadcast and strip.”
 - The FFM group description, “TIF methods – bed and strip,” was changed to “TIF methods – bed and drip.” Additionally, FFM code 1248 was added to represent the FFM group description.

Table 10 was also modified to indicate that FFM code 1290 is no longer allowed, which is consistent with Table 1, which lists the allowed field fumigation methods, on page 13.

Nonsubstantive Change to the Text of Proposed Regulations Following the 15-Day Comment Period

Following the 15-day comment period and prior to submitting this regulatory action to the Office of Administrative Law for review, DPR made a nonsubstantive change to the text to add “the” in 3 CCR section 6448.4(b)(1)(A). This is a nonsubstantive grammatical correction without regulatory effect. This change does not materially alter any requirement, right, responsibility, condition, prescription or other regulatory element of any CCR provision and therefore, no further notice is

required.

PUBLIC HEARINGS

DPR scheduled and held four public hearings during the 70-day comment period. Three in-person public hearings were scheduled and held on January 8, 2025, January 16, 2025, and January 21, 2025. A virtual hearing was scheduled and held on January 10, 2025. Transcripts for each of these hearings are contained in the rulemaking file.

RESPONSE TO PEER REVIEW COMMENTS

See Attachment A.

SUMMARY AND RESPONSE TO COMMENTS RECEIVED DURING 70-DAY COMMENT PERIOD

See Attachment B.

SUMMARY AND RESPONSE TO COMMENTS RECEIVED DURING THE 15-DAY COMMENT PERIOD

See Attachment C.

MANDATE ON LOCAL AGENCIES OR SCHOOL DISTRICTS

DPR has determined that the regulatory action does not impose a mandate upon local agencies or school districts.

ALTERNATIVES DETERMINATION

The Director has determined that no alternative considered by DPR would be more effective in carrying out the purpose for which this regulation is proposed, or would be as effective and less burdensome to affected private persons or businesses than the adopted regulations, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of the law. This regulatory action is necessary to reduce and mitigate the potential cancer risk of 1,3-D to occupational bystanders.

POSTING REQUIREMENT

3 CCR section 6110, states in part that, “The public report shall be posted on the official bulletin board of the Department for 45 days.” DPR has posted its Initial Statement of Reasons and Public Report on its official bulletin board, which consists of the Department's Internet Home Page <<http://www.cdpr.ca.gov>>. The documents incorporated by reference in this rulemaking were available upon request directly from the Department.