



**PESTICIDE REGISTRATION  
AND EVALUATION COMMITTEE (PREC)  
Meeting Minutes – November 15, 2024**

**Committee Members/Alternates in Attendance:**

Elizabeth Marder – Department of Public Health (CDPH)  
Fabiola Estrada – U.S. Environmental Protection Agency (EPA), Region 9  
Garrett Keating – Department of Industrial Relations (DIR)  
Heather Williams – Department of Resources Recycling and Recovery (CalRecycle)  
Ryan Bourbour – Department of Fish and Wildlife (DFW)  
Katherine Sutherland-Ashley – Office of Environmental Health Hazard Assessment (OEHHA)  
Fatemeh Ganjisaffar – California Department of Food and Agriculture (CDFA)  
Lisa McCann – State Water Resources Control Board (SWRCB)  
Stan Armstrong – Air Resources Board (ARB)  
Mai Ngo – Department of Toxic Substances Control (DTSC)  
Matt Hengel – University of California (UC), Davis, IR-4 Program and Environmental Toxicology  
Stephen Scheer – CA Agricultural Commissioners and Sealers Association (CACASA)  
Tom Ineichen – Structural Pest Control Board (SPCB)  
Tulio Macedo – Department of Pesticide Regulation (DPR)

**Visitors in Attendance:**

*Note: Only attendees who identified themselves using their full name are listed below*

Allison Johnson  
Angel Garcia  
Anne Katten – California Rural Legal Assistance Foundation  
Byanka Santoyo  
Christabelle Paranthu  
Daniel Hobby  
Emily Marquez  
Emily Saad – Exponent  
Erin Norwood  
Francisco Paredes  
George Cavinta – Norwood Associates  
James Nakashima – Office of Environmental Health Hazard Assessment (OEHHA)  
Jane Sellen  
Jason Greenwald  
Jing Tao - Office of Environmental Health Hazard Assessment (OEHHA)  
Justin Wycoff  
Kathleen Kilpatrick  
Kenneth Allen  
Kevi Mace – California Department of Food and Agriculture

Lena Freij – Natural Resources Defense Council (NRDC)  
Lendri Purcell  
Liza Gross  
Lori Miyasato – Office of Environmental Health Hazard Assessment (OEHHA)  
Luanne Jeram  
Maragaret Reeves  
Mark Weller  
Marylou Carlos  
Michael Barber – SBM Life Science Corp  
Michael Zeiss  
Ouahiba Laribi- Office of Environmental Health Hazard Assessment (OEHHA)  
Raul Garcia  
Regina Ware  
Ronnie Capili  
Scott Bowden  
Tammy Qualls  
Taryn Obaid  
Vanessa Forsythe

**DPR Staff in Attendance:**

Aisha Iqbal – Pesticide Registration Branch  
Andrew Turcotte – Pesticide Registration Branch  
Aniela Burant – Environmental Monitoring Branch  
Ann Schaffner – Worker Health & Safety Branch  
Aron Lindgren – Pesticide Registration Branch  
Beth Boss – Enforcement Branch  
Brenna McNabb – Pesticide Registration Branch  
Byron Tam – Integrated Pest Management Branch  
Elana Varner – Pesticide Registration Branch  
Jagjinder Sahota – Worker Health & Safety Branch  
Jazmin Johnson – Environmental Monitoring Branch  
Leslie Ann Talpasanu – Enforcement Branch  
Maziar Kandelous – Environmental Monitoring Branch  
Michel Oriel – Worker Health & Safety Branch  
Minh Pham - Environmental Monitoring Branch  
Nathan Desjarlais – Enforcement Branch  
Randy Segawa – Environmental Monitoring Branch  
Taylor Whitehill – Pesticide Registration Branch  
Yuzhou Luo - Environmental Monitoring Branch  
Yvan Delgado – Environmental Monitoring Branch

## **1. Introductions and Committee Business – Tulio Macedo, Chair, DPR**

Approximately fifty eight (58) people attended the meeting.

- a. On October 28<sup>th</sup>, DPR held a public meeting for consultation, in accordance with Food and Agricultural Code section 13145. The agenda and scientific support of the revision is available on DPR's website. I'd like to thank both Lisa McCann and Katie Sutherland-Ashley for representing their respective agencies in this subcommittee and providing DPR staff with the necessary consultative feedback.
- b. November 15<sup>th</sup>, DPR issued a notice of proposed regulatory action for regulations concerning health risk mitigation for 1,3-dichloropropene. The comment period will close on January 24, 2025.
- c. The formal comment period associated with rulemaking starts November 15<sup>th</sup>, DPR is facilitating questions regarding this rulemaking presentation. The focus of comments will be responses to technical and clarifying questions from committee members on today's presentation. DPR will not be facilitating public questions and comments for this topic at today's meeting. Comments on the proposed rulemaking can be made by following the provided instructions in the notice of proposed regulatory action, which will be covered in the presentation including virtual and in person hearings scheduled for January.

## **2. Upcoming Non-Agricultural Outdoor Neonicotinoid Sales and Use Restrictions – Nathan Desjarlais, DPR**

California has upcoming non-agricultural outdoor sales and use restrictions for neonicotinoid pesticides. Neonicotinoids or Neonics were developed as alternatives to organophosphate and carbamate insecticides which are generally more toxic to humans. Imidacloprid was the first neonic active ingredient registered in California in 1994. Neonics affect insect central nervous system resulting in paralysis and death. They are systemic pesticides absorbed into plants and translocated throughout plant tissues to the stems, leaves, roots, fruits, and flowers.

In 2009, four neonic active ingredients (imidacloprid, clothianidin, dinotefuran, and thiamethoxam) entered DPR reevaluation for agricultural use. In 2014 Assembly Bill (AB) 1789 adopted Food and Agriculture Code (FAC) section 12838. The law required DPR to issue a determination and adopt control measures to protect pollinator health from the four neonics. DPR adopted those measures effective January 1<sup>st</sup>, 2024.

In 2023, AB 363 amended FAC section 12838 to add a new subsection (c). This subsection includes five neonic active ingredients, the four listed above and added acetamiprid. DPR is also required to reevaluate the five neonicotinoid pesticides intended for non-agricultural use on non-production, outdoor trees, turf, or ornamental plants. The reevaluation initiated in March 2024. Restrictions on sales and use in subsection (c) paragraph (2) start January 1<sup>st</sup>, 2025.

FAC section 12838(c)(2) states “Beginning January 1, 2025, a person shall not sell, possess, or use a pesticide containing one or more neonicotinoid pesticides for any use that is excluded from the definition of ‘agricultural use’ in Section 11408 on non-production outdoor ornamental plants, trees, or turf, with the exception of use and possession by state certified applicators and sale by state licenses pest control dealers.”

Breaking down this law, first the neonic pesticides referenced in this paragraph are the five neonic active ingredients listed above.

Next is the exclusions from the definition of agricultural use. FAC section 11408 groups pest control in California into two broad categories: agricultural and non-agricultural (or non-ag) use. Non-ag uses include home use, structural use, industrial and institutional uses, vet prescription, or vector control agency use. Home use is a use of a pesticide in a household or its immediate environment. Structural use is a pesticide use requiring a license from the Structural Pest Control Board. Industrial use covers sites such as airports, construction sites, oil fields, and tank farms. Institutional use covers sites such as hospitals, libraries, prisons, schools and office complexes. Vector control includes agencies under a cooperative agreement with California Department of Public Health under the Health and Safety Code.

The term “non-production” is typically associated with “agricultural use” to differentiate use in production agriculture settings from those uses on sites such as cemeteries, greenbelts, parks or recreation areas, and golf courses. Non-agricultural uses are also typically non-production uses.

Finally, FAC section 12838(c)(2) applies to all non-agricultural, non-production outdoor trees, turf, and ornamental plants. Trees can include backyard fruit and nut trees including but not limited to apple, cherry, lemon, olive, orange, peach, pear, plum, or walnut trees. Ornamental plants do not include backyard fruit and vegetable gardens, such as berries, grapes, melons, and tomatoes.

Broadly, FAC section 12838(c)(2) means that neonicotinoid products must be sold by a licensed dealer, or used by a certified commercial applicator, in outdoor applications to: 1) ornamental nursery stock at retail nurseries, 2) ornamental plants in non-agricultural settings (such as landscaping around residences, libraries, airports and businesses). 3) all trees in non-agricultural use settings, including non-production fruit and nut trees around homes and residences, and 4) turf in non-agricultural use settings.

Relative to neonicotinoid pesticide use and possession, FAC section 12838(c)(2) provides an exemption on the broad prohibition on neonic use and possession in non-agricultural non-production outdoor settings if the use is by a certified commercial applicator. The law does not provide that certified applicators may supervise use by noncertified applicators in these settings. Therefore, applications by trained handlers under the supervision of a certified applicator, and applications by QAC holders solely with subcategory Q, are prohibited. Additionally, the law does not provide for applications by certified private applicators. This is because certified private applicators are limited to use of pesticides for the purposes of producing an agricultural

commodity on property owned, leased, or rented by them or their employer. As FAC section 12838(c)(2) is limited to non-agricultural uses, that excludes certified private applicators from these use situations.

Relative to pesticide sales, FAC section 11407 defines “pest control dealer” as any person who engages in the selling to a user of a pesticide which may be used only by or under the direct supervision of a certified applicator. FAC section 12101 makes it illegal to act in the capacity of a pest control dealer unless licensed by DPR. FAC section 12838(c)(2) provides an exemption on the broad prohibition on neonic sales for use non-agricultural non-production outdoor settings if the sale is by a state licensed pest control dealer. Pesticide retailers who are not licensed pest control dealers have a deadline of January 1, 2025, to either send existing stocks back to distributors, move product out of state, dispose of products via a hazardous waste disposal program, or become a licensed pest control dealer. This includes online sales of neonicotinoid pesticides.

Licensed dealers routinely question potential purchasers to determine if regulatory requirements can be met prior to the sale or delivery of a pesticide. Dealers will have to determine whether a prospective purchaser’s stated intent for the use requires them to be a certified commercial applicator. Dealers are encouraged to obtain a copy of the individual’s commercial applicator license of certificate to demonstrate the dealer complied with FAC section 12838(c)(2) prior to sale of the pesticide.

As part of the reevaluation mentioned earlier, in March 2024 DPR’s Registration Branch identified [146 products](https://cdpr.ca.gov/docs/registration/reevaluation/chemicals/nonagneonic.htm) <cdpr.ca.gov/docs/registration/reevaluation/chemicals/nonagneonic.htm> with active registration which are subject to the reevaluation. The products are also subject to the sales and use prohibition discussed today. Due to the unique wording of FAC section 12838(c)(2) and the limitations of DPR’s Product/Label Database there may be additional products which are not on the list which are subject to the law. It is also important to note the list does not include inactive or newly registered products.

Finally, while FAC section 12838(c) became effective January 1, 2024, the sales and use restrictions in paragraph (2) were delayed until January 1, 2025. DPR has developed outreach materials for dealers and brokers.

### ***Committee Comment***

Tom Ineichen – Gave thanks for a great presentation. Tom went on to ask in terms of the difference of the agricultural and non-agricultural uses, where does the maintenance gardener and business applicator deal with non-agricultural issues fall into? Nathan Desjarlais clarified and confirmed a landscape pest control business with Tom. Landscape pest control businesses have a QAL with category B and the applicator would need at least a QAC to perform neonic applications around residential areas and other non-agricultural sites. Second question, on slide number 11 that explains non-production outdoor neonic applications, and the indication that there are no applications by a trained handler under the supervision of a certified applicator. Is

that the same under structural where the applicator has the Registered Applicator license and is not a certified applicator? Nathan answered that there are not a lot of anticipated structural applications under the law because the law covers applications to outdoor plants. It would more likely be incidental contact, for example a plant up against a house. Now if an applicator is spraying a lawn for ants, the applicator would have to be certified. Finally, Tom asked if Registered Applicators would be in violation if they spray, even if a Field Representative were standing there watching them, they would still not be able to apply neonics? Nathan responded that was true. But that would generally not happen given the nature of the law and what structural applicators usually do.

### ***Public Comment***

Kathleen Kilpatrick inquired why there are very severe restrictions on use by agricultural and commercial applicators and loose restrictions on home use? When investigations have decided that a lot of pesticide exposure harms results from home use by people who don't quite understand the impacts of the products that they're using. Neonics not only harm pollinators but they're harmful to aquatic life and to probably humans and are persistent in the environment. They are showing up in human bodies in levels that are potentially hazardous. They are neurotoxins along with all the other broad-spectrum insecticides. How is the average garden user is supposed to know that this is a potentially hazardous chemical and that there are inappropriate uses? Nathan Desjarlais responded that if the label includes uses which are prohibited under this law the products can only be sold by licensed pest control dealers. Kathleen followed up to ask if Home Depot is a licensed pest control dealer? Nathan responded that he was not sure if dealer or a broker. Kathleen followed up to ask if Amazon is a licensed pest control dealer. Tulio Macedo responded that the question is a very detailed question on who is and who is not a dealer or broker. The type of question should be submitted through email to be answered. Nathan added that DPR's Licensing Program has a list of dealers and brokers, and the information is available on the DPR website. The products that have prohibited uses have to be sold by licensed dealers and that will serve to cut down on the supply available to homeowners.

Lina Freij - attorney at Natural Resources Defense Council, is very concerned about DPR's interpretation of AB 363 that allows the use of neonics on vegetables and fruit gardens. Neonics are the most ecologically destructive pesticide since Dichlorodiphenyltrichloroethane (DDT), studies repeatedly show that they are linked to dramatic losses of bees, birds, and fish populations. They are even linked to birth defects in deer, and they harm people as well. The legislature knew all of this and that is why it intended to control these dangerous products from backyard uses, but the way DPR is interpreting AB 363 creates a risk for misuse because it is so confusing. Backyard fruit and vegetable gardens are not considered ornamental, and this will be confusing to consumers who will see neonics on the shelf for garden use. Consumers will not know what plants they can use them on, and there is no practical distinction between backyard trees and tomatoes for the purposes of AB 363. The legislature identified backyard use of neonics as a problem. Consumers are unlikely to distinguish between plants that can and cannot be treated with the restricted pesticide. Neonics can travel through water, and can end up contaminating non-target plants, water supplies, and the ecosystem. What is assurance is that that

this interpretation doesn't interfere with that legislative intent? Nathan Desjarlais thanked Lina for the comment and question. The dealers are going to play a very critical role in the enforcement of the law. If there are prohibited or a mix of prohibited and allowed uses on the label, dealers will be the ones to make the call if the sale gets made or if applicator certification is required.

Vanessa Forsyth – Californians for Pesticide Reform – stated as someone who has their own home garden in a community garden and is concerned about what is in their backyard. It is not clear what neonics can be used on. Vanessa referred to ornamental strawberries and strawberries grown for consuming, or ornamental kale that can also be consumed and how that will be difficult to distinguish with the new law. Pesticide manufacturers and distributors will be responsible for enforcing the labeling. Is this being tracked by DPR in a way that we can be certain that it's not going to be abused? People who don't have permits and who are not informing customers about the neonics being used. Nathan Desjarlais thanked Vanessa for the comment and question. The label is the law, if there are prohibited uses on the label, the product will be removed from retailers effective January 1<sup>st</sup> and can only be sold by licensed pest control dealers. Nathan reiterated that dealers routinely question prospective purchasers before they make a sale, which makes dealers the critical link in all of the pesticide use that happens in California, and especially for this law.

Jane Sellen – Californians for Pesticide Reform – added support to the prior commenters about the misinterpretation of the clear intent of the legislature to remove the products for home use because of the ability to affect pollinator populations. Jane followed up that Amazon.com based in Seattle is a licensed pest control dealer, and expressed concern that Amazon would not question the use of pesticide products being purchased. Jane went on to point out ornamental and edible plants can appear similar and difficult to differentiate. And Jane inquired how Amazon will run interference between home gardeners that would like to use in on their apples while already legally spraying tomatoes. Nathan Desjarlais thanked Jane for the comments and questions. Nathan went on to remind that if applicators intend to use the pesticides for one of the prohibited uses, the applicator needs to be a certified commercial applicator. For example, if one wanted to apply the pesticide to peach trees in the backyard, an applicator license would need to be obtained from DPR before a dealer can sell the pesticide. This may result in more people becoming licensed applicators, and that they would first need to pass an exam on the safe and effective use of pesticides.

Taryn Obaid – Families Advocating for Chemical and Toxics Safety (based out of Sonoma County) – began with thanks for the presentation and added support to the previous commenters that the terms are very confusing to a consumer. Taryn reviewed and went on to list businesses on the licensed pest control dealer list: Amazon, Walmart, fruit nurseries, two dairy supply companies licensed in Petaluma. As well as Petaluma's main vendors for pest control management for city properties including trees and vegetation, as well as buildings and industrials. There are many plum trees all over town which are considered ornamental but still produce fruit that the public consumes. Not only bees are on the ornamental trees. Taryn went on to describe a neighbor who sprays all the time, and the wind blows the spray into the front

windows and vegetable garden. This example of unconscientious thinking is reason to examine ways to keep the pesticide more contained.

The following questions and comments were submitted via the Question & Answer (Q&A) Box:

**1. Anonymous:** To confirm, this does not apply to any products applied to structural elements of a property by a registered applicator license by the structural pest control board?

**Response:** Thank you for the question. The restrictions of FAC section 12838(c)(2) apply to non-production outdoor trees, turf, and ornamental plants. Applications to structural elements of a property are not covered by this law.

**2. Tammy Qualls:** Will pesticide registrants eventually be required to update the labels per new law?

**Response:** Thank you for the question. FAC section 12838(c)(2) does not require registrants to update or change their product labeling.

**3. Jane Sellen:** Under DPR's guidance, home gardeners do not need a license to spray their tomatoes. Why does DPR think homeowners will get a license for the apples in the same backyard?

**Response:** Thank you for the question. FAC section 12838(c)(2) uses the phrase "non-production outdoor ornamental plants, trees, or turf" to indicate applications subject to the bill's requirements, including the requirement for a license or certificate. DPR interprets the word "ornamental" in AB 363 as **only** modifying the word "plants." Put another way, the scope of FAC section 12838(c)(2) applies to all non-agricultural, non-production outdoor trees, turf, and ornamental plants. "Trees" as used in FAC section 12838(c)(2) includes non-agricultural outdoor fruit and nut trees (including but not limited to apple, cherry, lemon, olive, orange, peach, pear, pecan, plum, or walnut trees).

**James Nakashima (OEHHA):** Just a follow up comment for Ms. Obaid [live question/comment that Nathan answered from Taryn Obaid]. If an application from a neighboring property land on her property, she can complain to her county ag commissioner, DPR or CalEPA so that the incident can be investigated. Product labels typically prohibit applications under conditions that go off-site in the manner she describes, so these sound like potentially illegal applications and label violations.

### **3. 1,3-Dichloropropene Rulemaking For The Protection Of Occupational Bystanders – Ann Schaffner, DPR**

1,3-dichloropropene (1,3-D) is a fumigant used to control pests in soil. It is a restricted material that requires applications to be conducted or supervised by a certified applicator and a permit from the county agricultural commissioner. A "township cap" program was implemented in 1996

to address cancer risks by limiting use of 1,3-D. A township is a 6-mile by 6-mile area. A lawsuit (Vasquez v. DPR) successfully challenged the township cap program resulting in a court order to adopt regulations to address cancer risks to bystanders from 1,3-D. DPR's regulations addressing risks to residential bystanders became effective January 1, 2024. The regulations were specifically targeted to reduce acute (short-term) and chronic (long-term) risks for residents and community members that live near areas where a 1,3-D application is occurring. The residential bystander regulations included establishing setback distances from occupied structures, limiting the number of acres treated, adding TIF tarp requirements, extending tarp cutting times, adding new fumigation methods, and introducing annual reporting requirements.

In 2023, the Alameda County Superior Court ordered DPR to adopt regulations specifically to address cancer risks to occupational bystanders, or persons that might be working near an area where a 1,3-D application is occurring. The proposed regulations were developed through a joint and mutual process with the Office of Environmental Health Hazard Assessment (OEHHA) to address cancer risks to occupational bystanders and are based on OEHHA's recommendations. The proposed occupational bystander regulation will work in concert with DPR's residential bystander regulation by implementing additional measures to reduce potential exposure to 1,3-D and mitigate the potential 40-year working lifetime cancer risk to occupational bystanders.

DPR is following the process outlined in Food and Agricultural sections 12980 and 12981 for the rulemaking. These sections state that DPR and OEHHA share joint and mutual responsibility for developing regulations relating to pesticides and worker safety and that regulations relating to worker health effects shall be based on OEHHA's recommendations. In December 2023, OEHHA released its health-based recommendations to mitigate cancer risks to occupational bystanders from exposure to 1,3-D. Following consultation with DPR and the Toxic Air Contaminant Workgroup, OEHHA updated its initial recommendations in June 2024.

OEHHA's recommendations address two potential exposure scenarios: workers in close proximity to fields where 1,3-D is applied and workers in the general vicinity of fields where 1,3-D is applied. The target air concentration for cancer risk was determined to be the continuous exposure to an average annual concentration of 0.21 parts per billion (ppb) throughout a working lifetime, which would result in a cancer risk of 1 in 100,000 for workers. OEHHA's recommendations are based on a series of assumptions using available study data. The assumptions included that workers are working 8 hours per day, 5 days per week, with a working lifetime of 40 years out of a 70-year lifetime. Workers are present at the edge of the 1,3-D application site for 3 days per week for 3 weeks per application for a total of 9 days. The breathing rate for workers is  $10\text{m}^3/\text{workday}$  for moderately intensive work.

OEHHA's assumptions about 1,3-D applications were that:

- An application block size is 80 acres;
- Application rates for each method are based on historical averages using pesticide use data from 2013-2023;

- The application frequency is 3.2 times per year in the coastal region and 1.6 times per year in the inland region; and
- Certain non-tarped field fumigation application methods with higher emissions have been predominantly replaced by methods with lower emissions.

The mitigation recommendations to mitigate potential near-field exposures include using lower emission application methods, such as using totally impermeable film (TIF) tarps and using new application methods developed as part of the residential bystander regulations. Also restricting activities in proximity to treated fields, such as buffer zones. And controlling application conditions, such as restricting application rates, month of application, frequency of application, soil water content and other factors. These methods reaffirm previous regulatory requirements that require the use of TIF tarps or application methods with comparable emissions reductions.

To mitigate potential general vicinity exposures, OEHHA expects that residential bystander regulations will sufficiently decrease background exposures to occupational bystanders. OEHHA recommends conducting air monitoring and air modeling to assess if new methods and mitigation measures sufficiently decrease exposures and developing and adopting additional mitigation measures if annual average ambient air concentrations exceed 0.21 ppb. The recommendations for potential near-field and general vicinity exposures may be implemented separately or in combination.

A significant addition to the proposed regulations to specifically protect occupational bystanders is the requirement for buffer zones around the application area to ensure people stay out of the area during and after a 1,3-D application. The proposed regulation would amend 3 CCR (Title 3, California Code of Regulations) section 6448 to establish buffer zones around treated fields within which most activities are restricted during and after a 1,3-D application. Activities allowed within buffer zone boundaries include those related to fumigant handling, transit, and local, state, or federal officials conducting inspections, sampling, or other official duties.

In the portion of the “Buffer Zone Distances and Duration Periods” table from the “1,3-D Field Fumigation Requirements” document that is part of the regulation, the first column shows field fumigation methods grouped by similar type. Represented method codes for each type are listed in the next column. The last two columns list the buffer zone distance and duration for each region. Most of the application methods require a buffer zone around a treated field that is 100 feet from the edge of the field. The buffer must remain in place for 48 hours after the application has been completed. Based on OEHHA’s recommendations, these requirements will not exceed the target concentration for occupational bystanders. The deeper 24-inch injection method and methods using TIF tarps would comparably contain emissions and would not need additional restrictions for applications to most crops. Only applications to tree and grape crops using these methods would require buffer zones.

DPR will continue to monitor air concentration levels to evaluate if 1,3-D regulatory requirements that protect both residential and occupational bystanders are working to reduce potential for 1,3-D exposure. Air concentrations will be measured against the regulatory target,

that was developed jointly with OEHHA, and will inform necessary actions DPR may need to take protect the health of residential and occupational bystanders from potential exposure to 1,3-D. The proposed regulations would adopt a new section, 3 CCR section 6448.5. This specifies that as part of the annual report requirement, which was implemented as part of the residential bystander regulation, DPR will evaluate 1,3-D air concentrations to determine if they remain at or below the target level. DPR will develop appropriate measures to reduce exposures if air concentration levels are exceeded.

The Draft Annual 1,3-D Report must include an evaluation of whether estimated 1,3-D average air concentrations in any township exceed 0.21 ppb during the 8:00am to 4:00pm time period. DPR typically follows U.S. EPA guidance by modeling a 5-year period to estimate 40-year and other long-term air concentrations. However, to effectively evaluate the proposed regulation sooner, DPR proposes to start the evaluation period in 2027 with 3 years of data, so the 2027 annual report will evaluate an average of the air concentrations from 2025-2027 data. DPR will evaluate a 4-year average of air concentrations for the 2028 report and a 5-year average for the 2029 report and continue to evaluate a 5-year average for the 2030 report and for subsequent annual reports. This approach will provide DPR with a more comprehensive data set with which to evaluate the effectiveness of the regulation. DPR will publish a draft annual report for a 45-day public comment period.

If average air concentrations exceed 0.21 ppb during the 8:00am to 4:00pm time period, DPR will identify factors causing the exceedance, such as atypical cropping patterns in a township or 1,3-D fumigation methods or application rates that differ significantly from previous years. DPR will also determine if those factors are likely to persist and continue causing exceedances. If additional mitigation is needed, DPR will work with county agricultural commissioners and OEHHA to develop interim mitigation measures. This would allow DPR to more quickly address exceedances. If implemented, interim mitigation measures would remain in effect for 3 years while DPR completes the rulemaking process to make the interim measures permanent. During the 3-year period, DPR will continue to evaluate incoming data each year as part of the annual report. If new data indicate 1,3-D air concentrations will not continue to exceed 0.21 ppb as a 5-year average, DPR will stop the rulemaking process and allow the interim mitigation measures to expire.

The 70-day comment period for the occupational bystander regulation begins November 15, 2024, and will end on January 24, 2025. In January, DPR will conduct 3 in-person hearings and one virtual hearing to provide an overview of the proposed regulation and provide an opportunity for the public to submit oral and written comments. DPR will respond to comments and revise proposed regulation if needed from January to May 2025. If needed, DPR may have an additional 15-day public comment period from June to July 2025. From September to October 2025, DPR will review and respond to public comments and finalize the regulation. On January 1, 2026, the regulation will become effective.

Three in-person public hearings in Visalia, Salinas, and Chico, and one virtual public hearing have been scheduled to receive oral and written comments regarding the proposed regulation. A

presentation on the proposed regulation will be given prior to the start of each in-person hearing at 5:45 pm and prior to the virtual hearing at 9:45 am. The in-person hearings will commence at 6:00 pm and the virtual hearing will commence at 10:00 am. Spanish language interpretation will be provided at all four hearings. Interpretation in another language or sign language services can be requested via email to [languageaccess@cdpr.ca.gov](mailto:languageaccess@cdpr.ca.gov) or by calling 916-322-4553 by December 23, 2024. For requests received after December 23, 2024, DPR will make a best effort to accommodate requests.

Written comments on the proposed regulation can be submitted via the [SmartComment online public comment portal](https://cdpr.commentinput.com/?id=gCFatJfYB) <cdpr.commentinput.com/?id=gCFatJfYB>, U.S. mail, or facsimile until January 24, 2025. Comments submitted via U.S. mail must be postmarked by January 24, 2025. DPR and OEHHA will jointly review the comments timely received. Additional information about the [1,3-D Occupational Bystander Regulation](https://cdpr.ca.gov/docs/legbills/rulepkgs/24-001/24-001.htm) <cdpr.ca.gov/docs/legbills/rulepkgs/24-001/24-001.htm> on the DPR website.

### ***Committee Comment***

Garrett Keating stated that he was interested in the sampling during the interim period, and if it was blocking a high-volume sample for the area where there are multiple 1,3-D applications? Or is it more site-specific sampling to collect data from specific applications under different uses (perimeters, Tarp, and other application methods). Will it be targeted sampling near the occupational bystander zone rather than a global block sampling strategy? And second question is for the factors that you would look at if you were finding higher levels, is soil moisture one of them? I see quantity of pesticide use and some other factors but did not see soil moisture method as a factor. Minh Pham responded to the soil moisture question that this regulation along with previous 1,3-D regulation take into account new methodologies for applications such as soil moisture. Minh moved on the responding to the first part of the question, there are established monitoring techniques, whether that be from ambient air stations, field monitoring, seasonal monitoring. And that there is exploration into other different types of monitoring that may be appropriate for the interim time. All air monitoring will be in the annual reporting.

### ***Public Comment***

#### **4. Agenda Items for Next Meeting**

None to report.

The next meeting is scheduled for March 21, 2025 at 10:00 a.m. This meeting will be held virtually on the Zoom platform and broadcast live on the [CalEPA webcast page](https://video.calepa.ca.gov/).  
<video.calepa.ca.gov/>

#### **5. Adjourn**