
DIGEST OF NEW REGULATIONS

CALIFORNIA REGULATORY CODE SUPPLEMENT DIGEST

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OFFICIAL PUBLICATION

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SUMMARIES OF NEW REGULATIONS

For subscribers to the amendment service for Complete Code. Includes all amendments to regulations approved by the Office of Administrative Law and filed with the Secretary of State for the period 11/28/2016 through 12/2/2016.

Title 2*Fair Employment and Housing, Department of***Department of Fair Employment and Housing amends its conflict-of-interest code**

Summary: Amendments have been made to the list of general provisions, designated employees and disclosure categories for the conflict-of-interest code for the Department of Fair Employment and Housing. Conflict-of-interest codes designate employees who must disclose certain investments, income, interests in real property and business positions and who must disqualify themselves from making or participating in the making of governmental decisions affecting those interests. The code was updated to reflect the current organizational structure of the Department and also to make other technical changes.

Regulatory Action: Changes affect title 2, section 10500.

Filed: 11/28/2016. **Effective:** 12/28/2016. **OAL File No.:** 16-1108-01

Agency Contact: David Cullen (916) 478-7251

*Fair Political Practices Commission***Adoption of biennial cost of living adjustment for campaign and officeholder contribution limits**

Summary: The Fair Political Practices Commission has amended regulations pertaining to campaign contribution limits, voluntary expenditure ceilings, state officeholder contribution limits and gift limits in order to implement the biennial cost of living adjustment for the period from January 1, 2017 through December 31, 2018. In addition, this action amends the regulations to base the cost of living adjustment on the Department of Finance Consumer Price Index Forecast, May Revise, annual California Consumer Price Index for All Urban Consumers rather than the September forecast issued by the U.S. Bureau of Labor Statistics.

Regulatory Action: Changes affect title 2, sections 18544, 18545, 18700, 18730 and 18940.2.

Filed: 12/1/2016. **Effective:** 12/31/2016. **OAL File No.:** 16-1117-02

Agency Contact: Cesar Cuevas (916) 324-3854

Authority cited: Section 83112, Government Code. Reference: Sections 86107 and 86112.5, Government Code.

HISTORY

1. New article adopted 5-2-2005; operative 5-2-2005 pursuant to Government Code section 83112.5 (Register 2005, No. 18).
2. Amendment filed 10-13-78; operative 9-6-2012. Submitted to OAL for filing pursuant to Fair Practices Commission, Office of Administrative Law, 3 Civil 0010924, California Court of Appeals, Third Appellate District, nonpublished decision, April 11, 2012. Regulations only subject to 1974 Administrative Procedure Act requirements and not subject to procedural or substantive review by the State Bar (Register 2012, No. 32).

§ 18650. Reportable changes (Sections 86107 and 86109).

[Redacted]

NOTE: Authority cited: Section 83112, Government Code. Reference: Sections 86107 and 86112.5, Government Code.

HISTORY

1. Amendment filed 10-13-78; designated effective 1-1-79 (Register 78, No. 41).
2. Amendment filed 8-27-81; effective thirtieth day thereafter (Register 81, No. 32).

Chapter 7. Conflicts of Interest

Article 1. Conflicts of Interest; General Prohibition

§ 18700. Basic Rule and Guide to Conflict of Interest Regulations.

(a) **Basic Rule:** A public official at any level of state or local government has a prohibited conflict of interest and may not make, participate in making, or in any way use or attempt to use his or her official position to influence a governmental decision when he or she knows or has reason to know he or she has a disqualifying financial interest. A public official has a disqualifying financial interest if the decision will have a reasonably foreseeable material financial effect, distinguishable from the effect on the public generally, directly on the official, or his or her immediate family, or on any financial interest described in subdivision (c)(6)(A-F) herein. (Sections 87100, 87101, & 87103.)

(b) **Application:** The Act's conflict of interest prohibitions apply only to public officials and only to governmental decisions that have a financial effect.

(c) For purposes of the Act's conflict of interest prohibitions (Sections 87100-87105; Regulations 18700-18707), the following definitions apply:

(1) "Public Official" (see Section 82048) means every member, officer, employee, or consultant of a state or local government agency other than:

- (A) A judge or court commissioner;
- (B) A member of the Board of Governors and designated employees of the State Bar of California;
- (C) A member of the Judicial Council;
- (D) A member of the Commission on Judicial Performance, provided that he or she is subject to the provisions of Article 2.5 (commencing with Section 6035) of Chapter 4 of Division 3 of the Business and Professions Code as provided in Section 6038 of that article.

(E) A federal officer or employee serving in an official federal capacity on a state or local government agency.

(2) "Member" does not include an individual who performs duties as part of a committee, board, commission, group, or other body that does not have decisionmaking authority.

(A) A committee, board, commission, group, or other body possesses decisionmaking authority whenever:

- (i) It may make a final governmental decision;
- (ii) It may compel or prevent a governmental decision either by reason of an exclusive power to initiate the decision or by reason of a veto that may not be overridden; or

(iii) It makes substantive recommendations and, over an extended period of time, those recommendations have been regularly approved without significant amendment or modification by another public official or governmental agency.

(B) A committee, board, commission, group, or other body does not possess decisionmaking authority if it is formed or engaged for the sole purpose of researching a topic and preparing a report or recommendation for submission to another public official or governmental agency that has final decisionmaking authority, and does not meet any of the criteria set forth in subsection (2)(A)(i-iii).

(3) "Governmental agency" means any state or local agency or any entity or organization acting as a governmental agency.

(4) "Governmental decision" means any action taken by a government agency that has a financial effect on any person other than the governmental agency making the decision.

(5) "Financial effect" means an effect that provides a benefit of monetary value or provides, prevents, or avoids a detriment of monetary value.

(6) "Financial interest" means anything or anyone listed in subparagraphs (A-E) and includes an interest in the public official's own personal finances and those of a member of his or her immediate family.

(A) Any business entity, as defined in Section 82005, in which the public official has a direct or indirect investment worth at least \$2,000 (Section 87103(a)). For a "parent, subsidiary or otherwise related business entity," see Regulation 18700.2.

(B) Any real property in which the public official has a direct or indirect interest of at least \$2,000 (Section 87103(b));

(C) Any source of income, including commission income and incentive income as defined in 18700.1, amounting to a total of at least \$500, provided or promised to, and received by the public official within 12 months before the decision is made (Section 87103(c)). Income is "promised to" the public official if he or she has a legally enforceable right to the promised income. For a source of income that is a business entity that is a "parent, subsidiary, or otherwise related business entity," see Regulation 18700.2.

(D) Any business entity, as defined in Section 82005, in which the public official is a director, officer, partner, trustee, employee, or holds any position of management (Section 87103(d)). For a "parent, subsidiary, or otherwise related business entity," see Regulation 18700.2.

(E) Any donor of, or any intermediary or agent for a donor of, a gift or gifts amounting to a total of at least \$470 provided to, received by, or promised to the public official within 12 months before the decision is made (Section 87103(e); Regulation 18941);

(F) For purposes of paragraph (c)(6), indirect investment or interest means any investment or interest owned by the spouse or dependent child of a public official, by an agent on behalf of a public official, or by a business entity or trust in which the official, the official's agents, spouse, and dependent children own directly, indirectly, or beneficially at least a 10-percent interest (Section 87103(e) see also Sections 82033 and 82034).

(d) To determine whether a public official has a prohibited conflict of interest under the Act, apply the following:

(1) **Step One:** Is it reasonably foreseeable that the governmental decision will have a financial effect on any of the public official's financial interests? To determine if the financial effect is reasonably foreseeable, apply Regulation 18701. If the answer is no, there is no conflict of interest under the Act. If the answer is yes, proceed to Step Two.

(2) **Step Two:** Will the reasonably foreseeable financial effect be material? To determine if the reasonably foreseeable financial effect is material, apply Regulation 18702. If the answer is no, there is no conflict of interest under the Act. If the answer is yes, proceed to Step Three.

(3) **Step Three:** Can the public official demonstrate that the material financial effect on the public official's financial interest is indistinguishable from its effect on the public generally? To determine if the material financial effect on any of the public official's financial interest is indistinguishable from its effect on the public generally, apply Regulation

18703. If the answer is yes, there is no conflict of interest under the Act. If the answer is no, proceed to Step Four.

(4) **Step Four:** If after applying the three step analysis and determining the public official has a conflict of interest, absent an exception, he or she may not make, participate in making, or in any way attempt to use his or her official position to influence the governmental decision. To determine if the public official is "making, participating in making, or in any way attempting to use his or her official position to influence a governmental decision," apply Regulation 18704. If the public official will be called upon to make, participate in the making, or use his or her official position to influence a governmental decision in which he or she has a financial interest as determined under Step One through Step Three, he or she will have a prohibited conflict of interest.

(e) **Exception:** Notwithstanding the provisions of Sections 87100 and 87103 and this regulation, a public official may make or participate in a governmental decision in which he or she has a prohibited conflict of interest if the provisions of Section 87101 and Regulation 18705 apply.

(f) **Segmentation:** To determine if an agency may segment a decision in order to allow a public official to participate in a governmental decision by removing from consideration the elements of the governmental decision in which the official would otherwise have a prohibited conflict of interest, apply Regulation 18706.

NOTE: Authority cited: Section 83112, Government Code. Reference: Sections 87100 and 87103, Government Code.

HISTORY

1. Repealer and new section filed 12-17-76, as an emergency; effective upon filing (Register 76, No. 51). For prior history, see Register 75, No. 40.
2. Certificate of Compliance filed 3-31-77 (Register 77, No. 14).
3. Amendment of section heading and repealer of subsections (e) and (f) filed 8-2-85; effective thirtieth day thereafter (Register 85, No. 33).
4. Amendment of section and NOTE: filed 6-23-94; operative 6-23-94 (Register 94, No. 25).
5. Editorial correction of subsection (a)(2)(B) (Register 96, No. 43).
6. Amendment of subsection (d)(2) filed 10-23-96; operative 10-23-96 pursuant to Government Code section 11343.4(d) (Register 96, No. 43).
7. Editorial correction of subsection (d) (Register 98, No. 44).
8. Repealer and new section filed 11-23-98; operative 11-23-98 pursuant to the 1974 version of Government Code section 11380.2 and title 2, California Code of Regulations, section 18312(d) and (e) (Register 98, No. 48).
9. Editorial change reformatting table (Register 98, No. 52).
10. Change without regulatory effect amending table filed 1-27-99 pursuant to section 100, title 1, California Code of Regulations (Register 99, No. 5).
11. Editorial correction of HISTORY § (Register 2000, No. 25).
12. Change without regulatory effect amending table filed 7-18-2000 pursuant to section 100, title 1, California Code of Regulations (Register 2000, No. 29).
13. Amendment of subsections (b)(1) and (b)(8) filed 2-13-2001. Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil CD10924, California Court of Appeal, Third Appellate District, unpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements) (Register 2001, No. 7).
14. Change without regulatory effect amending subsection (b)(8) filed 1-16-2003. Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil CD10924, California Court of Appeal, Third Appellate District, unpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements) (Register 2003, No. 3).
15. Amendment of subsections (b)(1)-(8) filed 10-11-2005; operative 11-10-2005 (Register 2005, No. 41).
16. Amendment of subsections (a), (b)(7) and (b)(8) filed 12-20-2005; operative 1-19-2006. Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil CD10924, California Court of Appeal, Third District Court of Appeal, unpublished decision, 1992. (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements.) (Register 2005, No. 51).
17. Change without regulatory effect amending section heading and subsection (a), repealing subsections (b)-(b)(8) and adopting new subsections (b)-(f) filed 4-27-2015. Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil CD10924, California Court of Appeal, Third Appellate District, unpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements and not subject to procedural or substantive review by OAL.) (Register 2015, No. 18).
18. Amendment of subsections (c), (c)(6)(1)-(F) and (d)(3) filed 7-10-2015; operative 7-10-2015 pursuant to section 18312(e)(1)(A), title 2, California Code

of Regulations. Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil CD10924, California Court of Appeal, Third Appellate District, unpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements and not subject to procedural or substantive review by OAL.) (Register 2015, No. 28).

19. Amendment of subsection (c)(6)(E) filed 12-1-2016; operative 12-31-2016 pursuant to Cal. Code Regs. tit. 2, section 18312(e). Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil CD10924, California Court of Appeal, Third Appellate District, unpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements and not subject to procedural or substantive review by OAL.) (Register 2016, No. 49).

18700.1. Definitions: Source of Income, Commission Income and Incentive Income.

(1) For purposes of disqualification under Sections 87100 and 87103, a public official has a financial interest in any person from whom he or she has received income, including commission income and incentive compensation, aggregating \$500 or more within 12 months prior to the time when the relevant governmental decision is made. A public official's income includes income that has been promised to the public official but not yet received by him or her, if he or she has a legally enforceable right to the promised income.

(2) In addition to having a financial interest in any business entity from which the official has received income of \$500 or more within 12 months before the relevant governmental decision is made, the official has a source-of-income financial interest in all of the following:

(A) Any individual owning a 50 percent or greater interest in that business entity.

(B) Any individual, regardless of the extent of the individual's ownership interest in that entity, who has the power to select or cause the direction of the management and policies of the business entity.

(b) Former employer. Source of income, as defined in Section 87103(c) and this section, shall not include a former employer if: All income from the employer was received by or accrued to the public official prior to the time he or she became a public official; the income was received in the normal course of the previous employment; and there was no expectation by the public official at the time he or she assumed office of renewed employment with the former employer.

(c) Sources of Commission Income for Brokers, Agents and Salespersons

(1) "Commission income" means gross payments received by a public official as a result of services rendered as a broker, agent, or other salesperson for a specific sale or similar transaction. Commission income is received when it is paid or credited.

(2) The sources of commission income in a specific sale or similar transaction include for each of the following:

(A) An insurance broker or agent:
(i) The insurance company providing the policy;
(ii) The person purchasing the policy; and
(iii) The brokerage firm, agency, company or other business entity through which the broker or agent conducts business.

(B) A real estate broker:
(i) The person the broker represents in the transaction;
(ii) If the broker receives a commission from a transaction conducted by an agent working under the broker's auspices, the person represented by the agent;

(iii) Any brokerage business entity through which the broker conducts business; and

(iv) Any person who receives a finder's or other referral fee for referring a party to the transaction to the broker, or who makes a referral pursuant to a contract with the broker.

(C) A real estate agent:
(i) The broker and brokerage business entity under whose auspices the agent works;

(ii) The person the agent represents in the transaction; and
(iii) Any person who receives a finder's or other referral fee for referring a party to the transaction to the broker, or who makes a referral pursuant to a contract with the broker.

Barclays Official California Code of Regulations Currentness
Title 2. Administration
Division 6. Fair Political Practices Commission
Chapter 7. Conflicts of Interest
Article 1. Conflicts of Interest; General Prohibition (Refs & Annos)

2 CCR § 18701

§ 18701. Determining Whether a Financial Effect Is Reasonably Foreseeable.

(a) Financial Interest Explicitly Involved: A financial effect on a financial interest is presumed to be reasonably foreseeable if the financial interest is a named party in, or the subject of, a governmental decision before the official or the official's agency. A financial interest is the subject of a proceeding if the decision involves the issuance, renewal, approval, denial or revocation of any license, permit, or other entitlement to, or contract with, the financial interest, and includes any governmental decision affecting a real property financial interest as described in Regulation 18702.2(a)(1)-(6).

(b) Financial Interest Not Explicitly Involved in Decision: A financial effect need not be likely to be considered reasonably foreseeable. In general, if the financial effect can be recognized as a realistic possibility and more than hypothetical or theoretical, it is reasonably foreseeable. If the financial result cannot be expected absent extraordinary circumstances not subject to the public official's control, it is not reasonably foreseeable. In determining whether a governmental decision will have a reasonably foreseeable financial effect on a financial interest other than an interest described in subdivision (a), the following factors should be considered. These factors are not intended to be an exclusive list of all the relevant facts that may be considered in determining whether a financial effect is reasonably foreseeable, but are included as general guidelines.

(1) The extent to which the occurrence of the financial effect is contingent upon intervening events, not including future governmental decisions by the official's agency, or any other agency appointed by or subject to the budgetary control of the official's agency.

(2) Whether the public official should anticipate a financial effect on his or her financial interest as a potential outcome under normal circumstances when using appropriate due diligence and care.

(3) Whether the public official has a financial interest that is of the type that would typically be affected by the terms of the governmental decision or whether the governmental decision is of the type that would be expected to have a financial effect on businesses and individuals similarly situated to those businesses and individuals in which the public official has a financial interest.

(4) Whether a reasonable inference can be made that the financial effects of the governmental decision on the public official's financial interest might compromise a public official's ability to act in a manner consistent with his or her duty to act in the best interests of the public.

(5) Whether the governmental decision will provide or deny an opportunity, or create an advantage or disadvantage for one of the official's financial interests, including whether the financial interest may be entitled to compete or be eligible for a benefit resulting from the decision.

(6) Whether the public official has the type of financial interest that would cause a similarly situated person to weigh the advantages and disadvantages of the governmental decision on his or her financial interest in formulating a position.

Note: Authority cited: [Section 83112, Government Code](#). Reference: [Sections 87100, 87102.5, 87102.6, 87102.8 and 87103, Government Code](#).

HISTORY

1. New section filed 1-22-76; effective thirtieth day thereafter (Register 76, No. 4).
2. Amendment of subsection (c) filed 4-28-82; effective thirtieth day thereafter (Register 82, No. 18).
3. Amendment of subsection (b) filed 10-19-89; operative 11-18-89 (Register 89, No. 42).
4. Repealer and new section filed 11-23-98; operative 11-23-98 pursuant to the 1974 version of [Government Code section 11380.2](#) and title 2, California Code of Regulations, section 18312(d) and (e) (Register 98, No. 48).
5. Editorial correction of History 4 (Register 2000, No. 25).
6. Amendment of section heading, section and Note filed 1-11-2001; operative 2-1-2001. Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements) (Register 2001, No. 2).
7. Amendment filed 12-29-2005; operative 1-28-2006. Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992. (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements.) (Register 2005, No. 52).
8. Change without regulatory effect renumbering former section 18701 to section 18704.6 and renumbering former section 18706 to section 18701, including amendment of section, filed 4-27-2015. Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements and not subject to procedural or substantive review by OAL) (Register 2015, No. 18).
9. Amendment of subsection (a) filed 7-10-2015; operative 7-10-2015 pursuant to [section 18312\(e\)\(1\)\(A\), title 2, California Code of Regulations](#). Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements and not subject to procedural or substantive review by OAL) (Register 2015, No. 28).

This database is current through 12/4/20 Register 2020, No. 49

2 CCR § 18701, 2 CA ADC § 18701

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10/12/09

Portions of the California Code of Regulations submitted for U.S. EPA approval

California Code of Regulations

**(Title 3. Food and Agriculture)
Division 6. Pesticides and Pest Control Operations
Chapter 2. Pesticides
Subchapter 4. Restricted Materials
Article 4. Use Requirements**

6447. Methyl Bromide Field Fumigation – General Requirements

The provisions of this section and sections 6447.1, 6447.2, 6447.3, and 6784(b) pertain to field soil fumigation using methyl bromide. For purposes of these sections, field soil fumigation does not apply to golf courses, replant of individual vine or tree-sites (tree holes) less than one contiguous acre, raised-tarpaulin nursery fumigations of less than one acre, potting soil, and greenhouses and other similar structures. . . .

NOTE: Authority cited: Sections 11456, 12976, 12981, 14005 and 14102, Food and Agricultural Code.

Reference: Sections 11501, 12981, 14006 and 14102, Food and Agricultural Code.

~~**6447.3. Methyl Bromide Field Fumigation Methods.**~~

~~(a) The methyl bromide field soil fumigation must be made using only the methods described in this section. However, within the San Joaquin Valley, Southeast Desert, or Ventura ozone nonattainment areas, the following methods are prohibited during the May 1 through October 31 time period: (1), (2), (4), and (6); and if applied as alternating fumigated and unfumigated areas (strip fumigation), methods (3) and (5). In addition to labeling requirements for each of these methods, the following requirements shall apply.~~

~~(1) Nontarpaulin/Shallow/Bed~~

~~(A) Application rate shall not exceed 200 pounds of methyl bromide per acre.~~

~~(B) The application tractor shall be equipped with an air fan dilution system.~~

~~(C) Rearward-curved (swept-back) chisels shall be used with:~~

~~1. closing shoes and bed-shaper, or closing shoes and compaction roller; and~~

~~2. chisel injection points positioned beneath and ahead of the closing shoes.~~

~~(D) Injection depth shall be between 10 and 15 inches. The injection depth to preformed beds must not be below the bed furrow.~~

~~(E) Injection spacing shall be 40 inches or less.~~

~~(F) The soil shall not be disturbed for at least three days (72 hours) following completion of injection to the application block.~~

~~(G) The application block restricted entry interval shall be three days.~~

~~(2) Nontarpaulin/Deep/Broadcast~~

10/12/09

Portions of the California Code of Regulations submitted for U.S. EPA approval

California Code of Regulations

(Title 3. Food and Agriculture)
Division 6. Pesticides and Pest Control Operations
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~~NOTE: Authority cited: Sections 11456, 12976, 12981, 14005 and 14102, Food and Agricultural Code.~~

~~Reference: Sections 11501, 12981, 14006 and 14402, Food and Agricultural Code.~~

6447.3. Methyl Bromide Field Fumigation Methods.

(a) The methyl bromide field soil fumigation must be made using only the methods described in this section. However, within the San Joaquin Valley, Southeast Desert, or Ventura ozone nonattainment areas, the following methods are prohibited during the May 1 through October 31 time period: (1), (2), (4), and (6); and if applied as alternating fumigated and unfumigated areas (strip fumigation), methods (3) and (5). In addition to labeling requirements for each of these methods, the following requirements shall apply.

(1) Nontarpaulin/Shallow/Bed

(A) Application rate shall not exceed 200 pounds of methyl bromide per acre.

(B) The application tractor shall be equipped with an air fan dilution system.

(C) Rearward-curved (swept-back) chisels shall be used with:

1. closing shoes and bed-shaper, or closing shoes and compaction roller; and

2. chisel injection points positioned beneath and ahead of the closing shoes.

(D) Injection depth shall be between 10 and 15 inches. The injection depth to preformed beds must not be below the bed furrow.

(E) Injection spacing shall be 40 inches or less.

(F) The soil shall not be disturbed for at least three days (72 hours) following completion of injection to the application block.

(G) The application block restricted entry interval shall be three days.

(2) Nontarpaulin/Deep/Broadcast

(A) Application rate shall not exceed 400 pounds of methyl bromide per acre.

(B) Forward-curved chisel shall be used with:

1. An application tractor equipped with an air fan dilution system and the injection depth shall be at least 20 inches; or

2. Closing shoes and compaction roller and the injection depth shall be at least 24 inches.

(C) Injection spacing shall be 68 inches or less.

(D) The soil shall not be disturbed for at least four days (96 hours) following completion of injection to the application block.

(E) The application block restricted entry interval shall be four days.

(3) Tarpaulin/Shallow/Broadcast

(A) Application rate shall not exceed 400 pounds of methyl bromide per acre.

(B) Application shall be made using either:

1. An application tractor equipped with an air fan dilution system, and with a plow consisting of horizontal v-shaped blades mounted by a vertical arm to the tool bar. The fumigant shall be injected laterally beneath the soil surface; or

2. Rearward-curved (swept-back) chisels, closing shoes, and compaction roller shall be used.

(C) Injection depth shall be at least 10 and no greater than 15 inches.

(D) Injection spacing shall be 12 inches or less.

(E) The tarpaulin shall be laid down simultaneously (with fumigant injection) by tarpaulin-laying equipment mounted on the application tractor.

(F) The tarpaulin shall not be cut until a minimum of five days (120 hours) following completion of injection to the application block. The tarpaulin shall be cut pursuant to section 6784(b)(4).

(G) Tarpaulin removal shall begin no sooner than 24 hours after tarpaulin cutting has been completed.

(H) The application block restricted entry interval shall end at completion of tarpaulin removal, and shall be at least six days.

(4) Tarpaulin/Shallow/Bed

(A) Application rate shall not exceed 250 pounds of methyl bromide per acre.

(B) Rearward-curved (swept-back) chisels shall be used with either:

1. Closing shoes and compaction roller. The closing shoes shall cover the chisel marks with soil just ahead of the compaction roller, and the tarpaulin shall be laid down simultaneously (with fumigant injection) by tarpaulin-laying equipment mounted on the application tractor; or

2. Bed shaper. The chisels shall be placed with the injection point under the bed shaper, and the tarpaulin shall be laid down simultaneously (with fumigant injection) by tarpaulin-laying equipment mounted on the application tractor; or

3. Combination bed former and bed shaper. The chisels shall be placed between the bed former and the bed shaper. The tractor with the tarpaulin-laying equipment shall immediately follow the application tractor.

(C) Injection depth shall be between 6 and 15 inches. The injection depth to preformed beds must not be below the bed furrow.

(D) Injection spacing shall be 12 inches or less.

(E) The tarpaulin shall not be cut until at least five days (120 hours) following completion of injection to the application block.

(F) If tarpaulins are removed before planting, tarpaulin removal shall begin no sooner than 24 hours after tarpaulin cutting has been completed. The application block restricted-entry interval shall end at completion of tarpaulin removal, and shall be at least six days.

(G) If tarpaulins are not to be removed before planting, the application block restricted-entry interval shall either:

1. consist of the five-day period described in subsection (E) plus an additional 48 hours after holes have been cut for planting, or

2. be at least 14 days. If this option is chosen, the methyl bromide air concentration underneath the tarpaulin must test less than five parts per million before planting begins.

(5) Tarpaulin/Deep/Broadcast

(A) Application rate shall not exceed 400 pounds of methyl bromide per acre.

(B) Forward-curved chisels shall be used with either:

1. An air fan dilution system on the application tractor; or

2. Closing shoes and compaction roller.

(C) Injection depth shall be at least 20 inches.

(D) Injection spacing shall be 66 inches or less.

(E) The tarpaulin shall be laid down simultaneously (with fumigant injection) by tarpaulin-laying equipment mounted on the application tractor.

(F) The tarpaulin shall not be cut until at least five days (120 hours) following completion of injection to the application block. The tarpaulin shall be cut pursuant to section 6784(b)(4).

(G) Tarpaulin removal shall begin no sooner than 24 hours after tarpaulin cutting has been completed.

(H) The application block restricted entry interval shall end at completion of tarpaulin removal, and shall be at least six days.

(6) Drip System - Hot Gas A hot gas application through a subsurface drip irrigation system to tarpaulin-covered beds may be used if all of the following criteria are met:

(A) Application rate shall not exceed 225 pounds of methyl bromide per acre.

(B) The fumigant shall be injected beneath the soil surface at a minimum depth of one inch.

(C) The portion of the drip system used in the fumigation shall be physically disconnected from the main water supply during the fumigation to prevent possible contamination of the water supply.

(D) All fittings and emitters underneath the tarpaulin shall be buried in the soil to a minimum depth of one inch.

(E) Prior to the start of the fumigation, all drip tubing shall be checked for blockage, and the irrigation system connections and fittings checked for blockage and leaks using pressurized air and/or water. The end of each drip tubing shall be placed under the tarpaulin prior to introduction of fumigant.

(F) The tarpaulin shall be placed and inspected for tears, holes, or improperly secured edges prior to fumigating. Repairs and adjustments shall be made before the fumigation begins.

(G) Prior to the start of the fumigation, all fittings above ground and outside of the tarpaulin shall be pressure tested with compressed air, water, or nitrogen gas to a maximum pressure of 50 pounds per square inch. A soap solution shall be used to check the fittings for leaks if using air or nitrogen. All apparent leaks shall be eliminated prior to the fumigation. All drip tubing with emitters connected to the distribution manifold not covered by the tarpaulin shall be sealed to prevent fumigant loss through the emitters.

(H) Prior to introducing the fumigant, the drip system shall be purged of water by means of pressurized gas such as CO₂ or nitrogen.

(I) The drip system shall be purged prior to disconnecting any line containing the fumigant.

(J) After purging, drip tubing shall be pinched off and then disconnected from the distribution manifold. All disconnected tubing leading into the treated field shall be secured to prevent gas from escaping.

(K) All fittings used for connecting or disconnecting the heat exchanger to the irrigation system manifold shall be of a positive shut-off design.

(L) All persons shall wear the eye protection specified on the label when working with a manifold system or tubing containing the fumigant under pressure.

(M) The entire fumigation system (heater, valves, and manifold) shall be purged of the fumigant at the end of each day's fumigation.

(N) The tarpaulin shall not be cut until at least five days (120 hours) following completion of injection to the application block.

(O) If tarpaulins are removed before planting, tarpaulin removal shall begin no sooner than 24 hours after tarpaulin cutting has been completed. The application block restricted-entry interval shall end at completion of tarpaulin removal and shall be at least six days.

(P) If tarpaulins are not to be removed before planting, the application block restricted-entry interval shall either:

1. consist of the five-day period described in subsection (N) plus an additional 48 hours after holes have been cut for planting, or

2. be at least 14 days. If this option is chosen, the methyl bromide air concentration underneath the tarpaulin must test less than five parts per million before planting begins.

(b) Notwithstanding section 6770, the operator of the property shall assure that only persons performing fumigation-handling activities are allowed in an application block before the restricted entry interval expires. Persons performing activities other than tarpaulin cutting, removal, and repair described in sections 6784(b)(3), (4), and (5) shall wear a full-face respirator that meets the requirements of section 6784(b)(2)(C).

(c) Notwithstanding subsection (a), a reduced volatile organic compound emission field fumigation method approved pursuant to section 6452 or a method for experimental research purposes pursuant to a valid research authorization issued according to section 6260 may be allowed.

NOTE: Authority cited: Sections 11456, 12976, 12981, 14005 and 14102, Food and Agricultural Code.

Reference: Sections 11501, 12981, 14006 and 14102, Food and Agricultural Code.

6448.1.3 Dichloropropene Field Fumigation – General Requirements.

The provisions of section 6448.1 apply to field soil fumigation using 1,3-Dichloropropene within the Sacramento Metro, San Joaquin Valley, South Coast, Southeast Desert, or Ventura ozone nonattainment areas during the May 1 through October 31 time period. Raised-tarpaulin nursery fumigations of less than one acre, or replant of individual vine or tree-sites (tree holes) less than one contiguous acre, are not considered field soil fumigations under the provision of section 6448.1.

NOTE: Authority cited: Sections 11456, 12976, 12981, 14005, and 14102, Food and Agricultural Code.
Reference: Sections 11501, 12981, 14006, and 14102, Food and Agricultural Code.

6448.1. 1,3-Dichloropropene Field Fumigation Methods.

(a) Application rate must not exceed 332 pounds of 1,3-Dichloropropene active ingredient per acre.

(b) If there are no labeling requirements specifying soil moisture, then at time of application soil must contain at least enough moisture above the depth of application to meet the following test appropriate to the soil texture for:

(1) coarse soils (sand and loamy sand) – at least enough moisture to form a ball when compressed by hand, that may break when tapped;

(2) loamy, moderately coarse, or medium textured (coarse sandy loam, sandy loam, fine sandy loam) – at least enough moisture so that soil forms a ball that holds together when tapped;

(3) fine texture soils (clay loam, silty clay loam, sandy clay, silty clay, sandy clay loam and clay) – at least enough moisture so that the soil is pliable, not crumbly. Forms a ribbon when squeezed between thumb and forefinger.

(c) The 1,3-Dichloropropene field soil fumigation must be made using only the methods described in this section. However within the San Joaquin Valley, Southeast Desert, or Ventura ozone nonattainment areas, methods (1) and (2) are prohibited. In addition to labeling requirements for each of these methods, the following requirements shall apply.

(1) Nontarpaulin/Shallow/Broadcast or Bed

(A) Injection point must be at least 12 inches below the soil surface.

(B) Chisel trace must be eliminated by use of tillage equipment to mix the soil to a depth of at least three inches. Broadcast fumigation must be followed by compaction of the soil surface.

(2) Tarpaulin/Shallow/Broadcast or Bed

(A) Injection point must be at least 12 inches below the soil surface.

(B) Chisel trace must be eliminated by use of tillage equipment to mix the soil to a depth of at least three inches. Broadcast fumigation must be followed by compaction of the soil surface.

(C) Tarpaulins must be buried under at least four inches of firmly packed soil at the end of the rows.

(D) The operator of the property shall maintain a "tarpaulin repair response plan" pursuant to subsection

(d).

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~~NOTE: Authority cited: Sections 11456, 12976, 12981, 14005 and 14102, Food and Agricultural Code.~~

~~Reference: Sections 11501, 12981, 14006 and 14102, Food and Agricultural Code.~~

6448. 1,3-Dichloropropene Field Fumigation – General Requirements.

The provisions of section 6448.1 apply to field soil fumigation using 1,3-Dichloropropene within the Sacramento Metro, San Joaquin Valley, South Coast, Southeast Desert, or Ventura ozone nonattainment areas during the May 1 through October 31 time period. Raised-tarpaulin nursery fumigations of less than one acre, or replant of individual vine or tree-sites (tree holes) less than one contiguous acre, are not considered field soil fumigations under the provision of section 6448.1.

NOTE: Authority cited: Sections 11456, 12976, 12981, 14005, and 14102, Food and Agricultural Code.
Reference: Sections 11501, 12981, 14006, and 14102, Food and Agricultural Code.

~~**6448.1. 1,3-Dichloropropene Field Fumigation Methods:**~~

- (a) Application rate must not exceed 332 pounds of 1,3-Dichloropropene active ingredient per acre.
- (b) If there are no labeling requirements specifying soil moisture, then at time of application soil must contain at least enough moisture above the depth of application to meet the following test appropriate to the soil texture for:
 - (1) coarse soils (sand and loamy sand) – at least enough moisture to form a ball when compressed by hand, that may break when tapped;
 - (2) loamy, moderately coarse, or medium textured (coarse sandy loam, sandy loam, fine sandy loam) – at least enough moisture so that soil forms a ball that holds together when tapped;
 - (3) fine texture soils (clay loam, silty clay loam, sandy clay, silty clay, sandy clay loam and clay) – at least enough moisture so that the soil is pliable, not crumbly. Forms a ribbon when squeezed between thumb and forefinger.
- (c) The 1,3-Dichloropropene field soil fumigation must be made using only the methods described in this section. However within the San Joaquin Valley, Southeast Desert, or Ventura ozone nonattainment areas, methods (1) and (2) are prohibited. In addition to labeling requirements for each of these methods, the following requirements shall apply.
 - (1) Nontarpaulin/Shallow/Broadcast or Bed
 - (A) Injection point must be at least 12 inches below the soil surface.
 - (B) Chisel trace must be eliminated by use of tillage equipment to mix the soil to a depth of at least three inches. Broadcast fumigation must be followed by compaction of the soil surface.
 - (2) Tarpaulin/Shallow/Broadcast or Bed
 - (A) Injection point must be at least 12 inches below the soil surface.
 - (B) Chisel trace must be eliminated by use of tillage equipment to mix the soil to a depth of at least three inches. Broadcast fumigation must be followed by compaction of the soil surface.
 - (C) Tarpaulins must be buried under at least four inches of firmly packed soil at the end of the rows.
 - (D) The operator of the property shall maintain a "tarpaulin repair response plan" pursuant to subsection (d).

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Portions of the California Code of Regulations submitted for U.S. EPA approval

California Code of Regulations

**(Title 3. Food and Agriculture)
Division 6. Pesticides and Pest Control Operations
Chapter 2. Pesticides
Subchapter 4. Restricted Materials
Article 4. Use Requirements**

~~6400. Restricted Materials.~~

~~(e) Certain other pesticides:~~

~~METHYL IODIDE~~

~~6446. Methyl Iodide Field – General Requirements~~

~~The provisions of section 6446.1 apply to field soil fumigation using methyl iodide within the Sacramento Metro, San Joaquin Valley, South Coast, Southeast Desert, or Ventura ozone nonattainment areas below during the May 1 through October 31 time period. Replant of individual vine or tree-sites (tree holes) less than one contiguous acre is not considered field soil fumigations under the provisions of section 6446.1.~~

~~NOTE: Authority Cited: Sections 11456, 12976, 14005, and 14102, Food and Agricultural Code.
Reference: Sections 11501, 14006, and 14102, Food and Agricultural Code.~~

~~6446.1. Methyl Iodide Field Fumigation Methods.~~

~~(a) The field soil fumigation of methyl iodide is limited to methods specifically identified in the labeling.~~

~~(b) Notwithstanding subsection (a), a method for experimental research purposes pursuant to a valid research authorization issued according to section 6260 may be allowed.~~

~~NOTE: Authority cited: Sections 11456, 12976, 14005, and 14102, Food and Agricultural Code.~~

~~Reference: Sections 11501, 14006, and 14102, Food and Agricultural Code.~~

6448.1. 1,3-Dichloropropene Field Fumigation Methods.

(a) Application rate must not exceed 332 pounds of 1,3-Dichloropropene active ingredient per acre.

(b) If there are no labeling requirements specifying soil moisture, then at time of application soil must contain at least enough moisture above the depth of application to meet the following test appropriate to the soil texture for:

(1) coarse soils (sand and loamy sand) – at least enough moisture to form a ball when compressed by hand, that may break when tapped;

(2) loamy, moderately coarse, or medium textured (coarse sandy loam, sandy loam, fine sandy loam) – at least enough moisture so that soil forms a ball that holds together when tapped;

(3) fine texture soils (clay loam, silty clay loam, sandy clay, silty clay, sandy clay loam and clay) – at least enough moisture so that the soil is pliable, not crumbly.

(c) Fumigation methods using post-water treatments must be applied at a rate of 0.15-0.25 inches per hour and meet one of the following water requirements depending on soil texture:

(1) coarse soils - a minimum of 0.40 inches of water per acre.

(2) loamy, moderately coarse, or medium texture soils - a minimum of 0.30 inches of water per acre.

(3) fine texture soils - a minimum of 0.20 inches of water per acre.

(d) The 1,3-Dichloropropene field soil fumigation must be made using only the methods described in this section. However within the San Joaquin Valley, Southeast Desert, or Ventura ozone nonattainment areas, methods (1) and (2) are prohibited. In addition to labeling requirements for each of these methods, the following requirements shall apply.

(1) Nontarpaulin/Shallow/Broadcast or Bed

(A) Injection point must be at least 12 inches below the soil surface.

(B) Chisel trace must be eliminated by use of tillage equipment to mix the soil to a depth of at least three inches. Broadcast fumigation must be followed by compaction of the soil surface.

(2) Tarpaulin/Shallow/Broadcast or Bed

(A) Injection point must be at least 12 inches below the soil surface.

(B) Chisel trace must be eliminated by use of tillage equipment to mix the soil to a depth of at least three inches. Broadcast fumigation must be followed by compaction of the soil surface.

(C) Tarpaulins must be buried under at least four inches of firmly packed soil at the end of the rows.

(D) The operator of the property shall maintain a "tarpaulin repair response plan" pursuant to subsection (e).

(3) Nontarpaulin/Shallow/Broadcast or Bed/Three Post-fumigation Water Treatments

(A) Injection point must be at least 12 inches below the soil surface.

(B) Chisel trace must be eliminated by use of tillage equipment to mix the soil to a depth of at least three inches. Broadcast fumigation must be followed by compaction of the soil surface.

(C) Fumigation must be completed in a time that allows compliance with the post-fumigation water treatments below and meet the requirements in subsection (c):

1. Water must be applied by an irrigation method that uniformly covers the treated area in the entire application block.

2. On the day of fumigation, the first water treatment must begin within 30 minutes of the completion of fumigation. A second post-fumigation water treatment must start no earlier than one hour prior to sunset on the day of fumigation and completed by midnight.

3. On the day following fumigation, a third post-fumigation water treatment must be applied starting no earlier than one hour prior to sunset and completed by midnight.

4. Additional post-fumigation water treatment(s) may be applied at any time provided the treatments required above are completed in the specified time periods.

(4) Tarpaulin/Shallow/Bed/Three Post-fumigation Water Treatment

- (A) Injection point must be at least 12 inches below the soil surface.
- (B) Chisel trace must be eliminated by use of tillage equipment to mix the soil to a depth of at least three inches.
- (C) Tarpaulins must be buried under at least four inches of firmly packed soil at the ends of the rows.
- (D) Fumigation must be completed in a time that allows compliance with the post-fumigation water treatments below and meet the requirements in subsection (c):
 - 1. Water must be applied by an irrigation method that uniformly covers the untarped area in the entire application block.
 - 2. On the day of fumigation, the first water treatment to the untarped areas must begin within 30 minutes of the completion of fumigation. A second post-fumigation water treatment to the untarped areas must start no earlier than one hour prior to sunset on the day of fumigation and completed by midnight.
 - 3. On the day following fumigation, a third post-fumigation water treatment to the untarped areas must be applied starting no earlier than one hour prior to sunset and completed by midnight.
 - 4. Additional post-fumigation water treatment(s) may be applied at any time provided the treatments required above are completed in the specified time periods.
- (E) The operator of the property shall maintain a "tarpaulin repair response plan" pursuant to subsection (e).

(5) Nontarpaulin/Deep/Broadcast or Bed

- (A) Injection point must be at least 18 inches below the soil surface.
- (B) Chisel trace must be eliminated by use of tillage equipment to mix the soil to a depth of at least three inches. Broadcast fumigation must be followed by compaction of the soil surface.

(6) Tarpaulin/Deep/Broadcast or Bed

- (A) Injection point must be at least 18 inches below the soil surface.
- (B) Chisel trace must be eliminated by use of tillage equipment to mix the soil to a depth of at least three inches. Broadcast fumigation must be followed by compaction of the soil surface.
- (C) Tarpaulins must be buried under at least four inches of firmly packed soil at the end of the rows.
- (D) The operator of the property shall maintain a "tarpaulin repair response plan" pursuant to subsection (e).

(7) Chemigation (Drip System)/Tarpaulin

- (A) Drip system must be filled with water and tested for pressure variation, clogged emitters, and leaks before chemigation. The pressure must not exceed the pressure rating of the drip tape, and the pressure variation in the drip tape throughout the field must be less than three pounds per square inch. Drip system must be free of leaks and clogged emitters.
- (B) The tarpaulin shall be placed and inspected for tears, holes, or improperly secured edges prior to fumigating. Repairs and adjustments shall be made before the chemigation begins.
- (C) Ends of drip tape not covered by tarpaulin must be covered by at least two inches of soil.

(D) After chemigation, the drip system must be flushed with a volume of water at least three times the volume of the mainline and laterals of the drip system.

(E) The operator of the property shall maintain a "tarpaulin repair response plan" pursuant to subsection (e).

(e) Tarpaulin Repair.

(1) If a tarpaulin is used, the operator of the property shall maintain a "tarpaulin repair response plan." The tarpaulin repair response plan shall identify the responsibilities of the licensed pest control business and/or the permittee with regard to tarpaulin damage detection and repair activities. At a minimum, the tarpaulin repair response plan shall indicate the parties responsible for the repair and incorporate the applicable elements listed in (2) below.

(2) The "tarpaulin repair response plan" must state with specificity the situations when tarpaulin repair must be conducted. The situations should be based on, but not limited to, hazard to the public, residents, or workers; proximity to occupied structures, size of the damaged area(s); timing of damage; feasibility and response time of repair; and environmental factors such as wind speed and direction.

(f) Notwithstanding subsection (d), a reduced volatile organic compound emission field fumigation method approved pursuant to section 6452 or a method for experimental research purposes pursuant to a valid research authorization issued according to section 6260 may be allowed.

NOTE: Authority cited: Sections 11456, 12976, 12981, 14005, and 14102, Food and Agricultural Code.
Reference: Sections 11501, 12981, 14006, and 14102, Food and Agricultural Code.

~~6448.1. Chloropicrin Field Fumigation Methods.~~

~~(a) Application rate must not exceed 400 pounds of chloropicrin per acre.~~

~~(b) For products containing chloropicrin as the sole active ingredient, the field soil fumigation must be made using only the methods described in section 6447.3 or 6448.1. However within the San Joaquin Valley, Southeast Desert, or Ventura ozone nonattainment areas the methods described in the following sections are prohibited: 6447.3(a)(1), (2), (4), and (6); if applied as alternating fumigated and unfumigated areas (strip fumigation), methods 6447.3(a)(3) and (5); 6448.1(c)(1) and (5); and if applied as a bed fumigation, 6448.1(c)(2).~~

~~(c) If there are no labeling requirements specifying soil moisture, then at time of application soil must contain at least enough moisture above the depth of application to meet the following test appropriate to the soil texture for:~~

~~(1) coarse soils (sand and loamy sand) - at least enough moisture to form a ball when compressed by hand, that may break when tapped;~~

~~(2) loamy, moderately coarse, or medium textured (coarse sandy loam, sandy loam, fine sandy loam) - at least enough moisture so that soil forms a ball that holds together when tapped;~~

~~(3) fine texture soils (clay loam, silty clay loam, sandy clay, silty clay, sandy clay loam and clay) - at least enough moisture so that the soil is pliable, not crumbly.~~

~~(d) Tarpaulin Repair.~~

~~(1) If a tarpaulin is used, the operator of the property shall maintain a "tarpaulin repair response plan." The tarpaulin repair response plan shall identify the responsibilities of the licensed pest control business and/or the permittee with regard to tarpaulin damage detection and repair activities. At a minimum, the tarpaulin repair response plan shall indicate the parties responsible for the repair and incorporate the applicable elements described in (2) below.~~

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~~(B) Chisel trace must be eliminated by use of tillage equipment to mix the soil to a depth of at least three inches. Broadcast fumigation must be followed by compaction of the soil surface.~~

~~(6) Tarpaulin/Deep/Broadcast or Bed~~

~~(A) Injection point must be at least 18 inches below the soil surface.~~

~~(B) Chisel trace must be eliminated by use of tillage equipment to mix the soil to a depth of at least three inches. Broadcast fumigation must be followed by compaction of the soil surface.~~

~~(C) Tarpaulins must be buried under at least four inches of firmly packed soil at the end of the rows.~~

~~(D) The operator of the property shall maintain a "tarpaulin repair response plan" pursuant to subsection (d).~~

~~(7) Chemigation (Drip System)/Tarpaulin~~

~~(A) Drip system must be filled with water and tested for pressure variation, clogged emitters, and leaks before chemigation. The pressure must not exceed the pressure rating of the drip tape, and the pressure variation in the drip tape throughout the field must be less than three pounds per square inch. Drip system must be free of leaks and clogged emitters.~~

~~(B) The tarpaulin shall be placed and inspected for tears, holes, or improperly secured edges prior to fumigating. Repairs and adjustments shall be made before the chemigation begins.~~

~~(C) Ends of drip tape not covered by tarpaulin must be covered by at least two inches of soil.~~

~~(D) After chemigation, the drip system must be flushed with a volume of water at least three times the volume of the mainline and laterals of the drip system.~~

~~(E) The operator of the property shall maintain a "tarpaulin repair response plan" pursuant to subsection (d).~~

~~(d) Tarpaulin Repair.~~

~~(1) If a tarpaulin is used, the operator of the property shall maintain a "tarpaulin repair response plan." The tarpaulin repair response plan shall identify the responsibilities of the licensed pest control business and/or the permittee with regard to tarpaulin damage detection and repair activities. At a minimum, the tarpaulin repair response plan shall indicate the parties responsible for the repair and incorporate the applicable elements listed in (2) below.~~

~~(2) The "tarpaulin repair response plan" must state with specificity the situations when tarpaulin repair must be conducted. The situations should be based on, but not limited to, hazard to the public, residents, or workers; proximity to occupied structures, size of the damaged area(s); timing of damage; feasibility and response time of repair; and environmental factors such as wind speed and direction.~~

~~(e) Notwithstanding subsection (c), a reduced volatile organic compound emission field fumigation method approved pursuant to section 6452 or a method for experimental research purposes pursuant to a valid research authorization issued according to section 6260 may be allowed.~~

~~NOTE: Authority cited: Sections 11456, 12976, 12981, 14005, and 14102, Food and Agricultural Code.
Reference: Sections 11501, 12981, 14006, and 14102, Food and Agricultural Code.~~

6449. Chloropicrin Field Fumigation – General Requirements.

The provisions of section 6449.1 apply to field soil fumigation using chloropicrin within the Sacramento Metro, San Joaquin Valley, South Coast, Southeast Desert, or Ventura ozone nonattainment areas during the May 1 through October 31 time period. Raised-tarpaulin nursery fumigations of less than one acre or

replant of individual vine or tree-sites (tree holes) less than one contiguous acre are not considered field soil fumigations under the provisions of section 6449.1.

NOTE: Authority cited: Sections 11456, 12976, 12981, 14005, and 14102, Food and Agricultural Code. Reference: Sections 11501, 12981, 14006, and 14102, Food and Agricultural Code.

6449.1. Chloropicrin Field Fumigation Methods.

(a) Application rate must not exceed 400 pounds of chloropicrin per acre.

(b) For products containing chloropicrin as the sole active ingredient, the field soil fumigation must be made using only the methods described in section 6447.3 or 6448.1. However within the San Joaquin Valley, Southeast Desert, or Ventura ozone nonattainment areas the methods described in the following sections are prohibited: 6447.3(a)(1), (2), (4), and (6); if applied as alternating fumigated and unfumigated areas (strip fumigation), methods 6447.3(a)(3) and (5); 6448.1(c)(1) and (5); and if applied as a bed fumigation, 6448.1(c)(2).

(c) If there are no labeling requirements specifying soil moisture, then at time of application soil must contain at least enough moisture above the depth of application to meet the following test appropriate to the soil texture for:

(1) coarse soils (sand and loamy sand) - at least enough moisture to form a ball when compressed by hand, that may break when tapped;

(2) loamy, moderately coarse, or medium textured (coarse sandy loam, sandy loam, fine sandy loam) - at least enough moisture so that soil forms a ball that holds together when tapped;

(3) fine texture soils (clay loam, silty clay loam, sandy clay, silty clay, sandy clay loam and clay) - at least enough moisture so that the soil is pliable, not crumbly. Forms a ribbon when squeezed between the thumb and forefinger.

(d) Tarpaulin Repair.

(1) If a tarpaulin is used, the operator of the property shall maintain a "tarpaulin repair response plan." The tarpaulin repair response plan shall identify the responsibilities of the licensed pest control business and/or the permittee with regard to tarpaulin damage detection and repair activities. At a minimum, the tarpaulin repair response plan shall indicate the parties responsible for the repair and incorporate the applicable elements described in (2) below.

(2) The "tarpaulin repair response plan" must state with specificity the situations when tarpaulin repair must be conducted. The situations should be based on, but not limited to, hazard to the public, residents, or workers; proximity to occupied structures, size of the damaged area(s); timing of damage; feasibility and response time of repair; and environmental factors such as wind speed and direction.

(e) Notwithstanding subsection (b), a reduced volatile organic compound emission field fumigation method approved pursuant to section 6452 or a method for experimental research purposes pursuant to a valid research authorization issued according to section 6260 may be allowed.

NOTE: Authority cited: Sections 11456, 12976, 12981, 14005, and 14102, Food and Agricultural Code. Reference: Sections 11501, 12981, 14006, and 14102, Food and Agricultural Code.

6450. Metam-Sodium, Potassium N-methyldithiocarbamate (metam-potassium), and Dazomet Field Fumigation – General Requirements.

The provisions of sections 6450.1 and 6450.2 apply to field soil fumigation using metam-sodium, potassium N-methyldithiocarbamate (metam-potassium), or dazomet within the Sacramento Metro, San

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~~(D) After chemigation, the drip system must be flushed with a volume of water at least three times the volume of the mainline and laterals of the drip system.~~

(E) The operator of the property shall maintain a "tarpaulin repair response plan" pursuant to subsection (e).

(e) Tarpaulin Repair.

(1) If a tarpaulin is used, the operator of the property shall maintain a "tarpaulin repair response plan." The tarpaulin repair response plan shall identify the responsibilities of the licensed pest control business and/or the permittee with regard to tarpaulin damage detection and repair activities. At a minimum, the tarpaulin repair response plan shall indicate the parties responsible for the repair and incorporate the applicable elements listed in (2) below.

(2) The "tarpaulin repair response plan" must state with specificity the situations when tarpaulin repair must be conducted. The situations should be based on, but not limited to, hazard to the public, residents, or workers; proximity to occupied structures, size of the damaged area(s); timing of damage; feasibility and response time of repair; and environmental factors such as wind speed and direction.

(f) Notwithstanding subsection (d), a reduced volatile organic compound emission field fumigation method approved pursuant to section 6452 or a method for experimental research purposes pursuant to a valid research authorization issued according to section 6260 may be allowed.

~~NOTE: Authority cited: Sections 11456, 12976, 12981, 14005, and 14102, Food and Agricultural Code.
Reference: Sections 11501, 12981, 14006, and 14102, Food and Agricultural Code.~~

6449.1. Chloropicrin Field Fumigation Methods.

(a) Application rate must not exceed 400 pounds of chloropicrin per acre.

(b) For products containing chloropicrin as the sole active ingredient, the field soil fumigation must be made using only the methods described in section 6447.3 or 6448.1. However within the San Joaquin Valley, Southeast Desert, or Ventura ozone nonattainment areas the methods described in the following sections are prohibited: 6447.3(a)(1), (2), (4), and (6); if applied as alternating fumigated and unfumigated areas (strip fumigation), methods 6447.3(a)(3) and (5); 6448.1(c)(1) and (5); and if applied as a bed fumigation, 6448.1(c)(2).

(c) If there are no labeling requirements specifying soil moisture, then at time of application soil must contain at least enough moisture above the depth of application to meet the following test appropriate to the soil texture for:

(1) coarse soils (sand and loamy sand) - at least enough moisture to form a ball when compressed by hand, that may break when tapped;

(2) loamy, moderately coarse, or medium textured (coarse sandy loam, sandy loam, fine sandy loam) - at least enough moisture so that soil forms a ball that holds together when tapped;

(3) fine texture soils (clay loam, silty clay loam, sandy clay, silty clay, sandy clay loam and clay) - at least enough moisture so that the soil is pliable, not crumbly.

(d) Tarpaulin Repair.

(1) If a tarpaulin is used, the operator of the property shall maintain a "tarpaulin repair response plan." The tarpaulin repair response plan shall identify the responsibilities of the licensed pest control business and/or the permittee with regard to tarpaulin damage detection and repair activities. At a minimum, the tarpaulin repair response plan shall indicate the parties responsible for the repair and incorporate the applicable elements described in (2) below.

(2) The "tarpaulin repair response plan" must state with specificity the situations when tarpaulin repair must be conducted. The situations should be based on, but not limited to, hazard to the public, residents, or workers; proximity to occupied structures, size of the damaged area(s); timing of damage; feasibility and response time of repair; and environmental factors such as wind speed and direction.

(e) Notwithstanding subsection (b), a reduced volatile organic compound emission field fumigation method approved pursuant to section 6452 or a method for experimental research purposes pursuant to a valid research authorization issued according to section 6260 may be allowed.

NOTE: Authority cited: Sections 11456, 12976, 12981, 14005, and 14102, Food and Agricultural Code.
Reference: Sections 11501, 12981, 14006, and 14102, Food and Agricultural Code.

6450.1. Metam-Sodium and Potassium N-methyldithiocarbamate (Metam-Potassium) Field Fumigation Methods.

(a) Application rate must not exceed 320 pounds active ingredient per acre for metam-sodium. Application rate must not exceed 350 pounds active ingredient per acre for potassium N-methyldithiocarbamate (metam-potassium).

(b) Except for the method described in subsection (e)(9), if there are no labeling requirements specifying soil moisture, then at time of application soil must contain at least enough moisture above the depth of application to meet the following test appropriate to the soil texture for:

(1) coarse soils (sand and loamy sand) – at least enough moisture to form a ball when compressed by hand, that may break when tapped;

(2) loamy, moderately coarse, or medium textured (coarse sandy loam, sandy loam, fine sandy loam) – at least enough moisture so that soil forms a ball that holds together when tapped;

(3) fine texture soils (clay loam, silty clay loam, sandy clay, silty clay, sandy clay loam, and clay) – at least enough moisture so that the soil is pliable, not crumbly.

(c) Fumigations must start no earlier than one hour after sunrise and must be completed no later than one hour before sunset except for the method described in subsection (e)(9), (10), and (11).

(d) Fumigation methods using post-water treatments must be applied at a rate of 0.15-0.25 inches per hour and meet one of the following water requirements depending on soil texture:

(1) coarse soils - a minimum of 0.40 inches of water per acre.

(2) loamy, moderately coarse, or medium texture soils - a minimum of 0.30 inches of water per acre.

(3) fine texture soils - a minimum of 0.20 inches of water per acre.

(e) The metam-sodium or potassium N-methyldithiocarbamate (metam-potassium) field soil fumigation must be made using only the methods described in this section. However, within the San Joaquin Valley, Southeast Desert, or Ventura ozone nonattainment areas, methods (1), (4), and (9) are prohibited. In addition to labeling requirements for each of these methods, the following requirements shall apply.

(1) Sprinkler/Broadcast or Bed/One Post-Fumigation Water Treatment

(A) Fumigation must be completed in a time that allows compliance with the post-fumigation water treatment below and meet the requirements in subsection (d):

1. Water must be applied by an irrigation method that uniformly covers the treated area in the entire application block.

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~~replant of individual vine or tree sites (tree holes) less than one contiguous acre are not considered field soil fumigations under the provisions of section 6449.1.~~

~~NOTE: Authority cited: Sections 11456, 12976, 12981, 14005, and 14102, Food and Agricultural Code.
Reference: Sections 11501, 12981, 14006, and 14102, Food and Agricultural Code.~~

~~**6449.1. Chloropicrin Field Fumigation Methods.**~~

~~(a) Application rate must not exceed 400 pounds of chloropicrin per acre.~~

~~(b) For products containing chloropicrin as the sole active ingredient, the field soil fumigation must be made using only the methods described in section 6447.3 or 6448.1. However within the San Joaquin Valley, Southeast Desert, or Ventura ozone nonattainment areas the methods described in the following sections are prohibited: 6447.3(a)(1), (2), (4), and (6); if applied as alternating fumigated and unfumigated areas (strip fumigation), methods 6447.3(a)(3) and (5); 6448.1(c)(1) and (5); and if applied as a bed fumigation, 6448.1(c)(2).~~

~~(c) If there are no labeling requirements specifying soil moisture, then at time of application soil must contain at least enough moisture above the depth of application to meet the following test appropriate to the soil texture for:~~

~~(1) coarse soils (sand and loamy sand) - at least enough moisture to form a ball when compressed by hand, that may break when tapped;~~

~~(2) loamy, moderately coarse, or medium textured (coarse sandy loam, sandy loam, fine sandy loam) - at least enough moisture so that soil forms a ball that holds together when tapped;~~

~~(3) fine texture soils (clay loam, silty clay loam, sandy clay, silty clay, sandy clay loam and clay) - at least enough moisture so that the soil is pliable, not crumbly. Forms a ribbon when squeezed between the thumb and forefinger.~~

~~(d) Tarpaulin Repair.~~

~~(1) If a tarpaulin is used, the operator of the property shall maintain a "tarpaulin repair response plan." The tarpaulin repair response plan shall identify the responsibilities of the licensed pest control business and/or the permittee with regard to tarpaulin damage detection and repair activities. At a minimum, the tarpaulin repair response plan shall indicate the parties responsible for the repair and incorporate the applicable elements described in (2) below.~~

~~(2) The "tarpaulin repair response plan" must state with specificity the situations when tarpaulin repair must be conducted. The situations should be based on, but not limited to, hazard to the public, residents, or workers; proximity to occupied structures, size of the damaged area(s); timing of damage; feasibility and response time of repair; and environmental factors such as wind speed and direction.~~

~~(e) Notwithstanding subsection (b), a reduced volatile organic compound emission field fumigation method approved pursuant to section 6452 or a method for experimental research purposes pursuant to a valid research authorization issued according to section 6260 may be allowed.~~

~~NOTE: Authority cited: Sections 11456, 12976, 12981, 14005, and 14102, Food and Agricultural Code.
Reference: Sections 11501, 12981, 14006, and 14102, Food and Agricultural Code.~~

6450. Metam-Sodium, Potassium N-methyldithiocarbamate (metam-potassium), and Dazomet Field Fumigation – General Requirements.

The provisions of sections 6450.1 and 6450.2 apply to field soil fumigation using metam-sodium, potassium N-methyldithiocarbamate (metam-potassium), or dazomet within the Sacramento Metro, San

Joaquin Valley, South Coast, Southeast Desert, or Ventura ozone nonattainment areas during the May 1 through October 31 time period. Golf courses, tree applications for prevention of root graft disease transmission, wood decay uses, potting soil, replant of individual vine or tree-sites (tree holes) less than one contiguous acre, raised-tarpaulin nursery fumigations of less than one acre, and greenhouses and other similar structures are not considered field soil fumigations under the provisions of sections 6450.1 and 6450.2.

NOTE: Authority cited: Sections 11456, 12976, 12981, 14005, and 14102, Food and Agricultural Code.
Reference: Sections 11501, 12981, 14006, and 14102, Food and Agricultural Code.

~~**6450.4. Metam-Sodium and Potassium N-methyldithiocarbamate (Metam-Potassium) Field Fumigation Methods.**~~

~~(a) Application rate must not exceed 320 pounds active ingredient per acre for metam-sodium. Application rate must not exceed 350 pounds active ingredient per acre for potassium N-methyldithiocarbamate (metam-potassium).~~

~~(b) Except for the method described in subsection (d)(9), if there are no labeling requirements specifying soil moisture, then at time of application soil must contain at least enough moisture above the depth of application to meet the following test appropriate to the soil texture for:~~

~~(1) coarse soils (sand and loamy sand) – at least enough moisture to form a ball when compressed by hand, that may break when tapped;~~

~~(2) loamy, moderately coarse, or medium textured (coarse sandy loam, sandy loam, fine sandy loam) – at least enough moisture so that soil forms a ball that holds together when tapped;~~

~~(3) fine texture soils (clay loam, silty clay loam, sandy clay, silty clay, sandy clay loam, and clay) – at least enough moisture so that the soil is pliable, not crumbly. Forms a ribbon when squeezed between thumb and forefinger.~~

~~(c) Fumigations must start no earlier than one hour after sunrise and must be completed no later than one hour before sunset except for the method described in subsection (d)(9).~~

~~(d) The metam-sodium or potassium N-methyldithiocarbamate (metam-potassium) field soil fumigation must be made using only the methods described in this section. However, within the San Joaquin Valley, Southeast Desert, or Ventura ozone nonattainment areas, methods (1), (4), and (9) are prohibited. In addition to labeling requirements for each of these methods, the following requirements shall apply.~~

~~(1) Sprinkler/Broadcast or Bed/One Post-Fumigation Water Treatment~~

~~(A) Fumigation must be completed in a time that allows compliance with the post-fumigation water treatment below:~~

~~1. Water must be applied by an irrigation method that uniformly covers the treated area in the entire application block.~~

~~2. On the day of fumigation, one post-fumigation water treatment must consist of at least 0.20 inches of water, beginning within 30 minutes of the completion of fumigation.~~

~~3. Any additional post-fumigation water treatment(s) may be applied at any time.~~

~~(2) Sprinkler/Broadcast or Bed/Two Post-Fumigation Water Treatments~~

~~(A) Fumigation must be completed in a time that allows compliance with the post-fumigation water treatments below:~~

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~~(2) The "tarpaulin repair response plan" must state with specificity the situations when tarpaulin repair must be conducted. The situations should be based on, but not limited to, hazard to the public, residents, or workers; proximity to occupied structures, size of the damaged area(s); timing of damage; feasibility and response time of repair; and environmental factors such as wind speed and direction.~~

(e) Notwithstanding subsection (b), a reduced volatile organic compound emission field fumigation method approved pursuant to section 6452 or a method for experimental research purposes pursuant to a valid research authorization issued according to section 6260 may be allowed.

~~NOTE: Authority cited: Sections 11456, 12976, 12981, 14005, and 14102, Food and Agricultural Code.
Reference: Sections 11501, 12981, 14006, and 14102, Food and Agricultural Code.~~

6450.1. Metam-Sodium and Potassium N-methyldithiocarbamate (Metam-Potassium) Field Fumigation Methods.

(a) Application rate must not exceed 320 pounds active ingredient per acre for metam-sodium. Application rate must not exceed 350 pounds active ingredient per acre for potassium N-methyldithiocarbamate (metam-potassium).

(b) Except for the method described in subsection (e)(9), if there are no labeling requirements specifying soil moisture, then at time of application soil must contain at least enough moisture above the depth of application to meet the following test appropriate to the soil texture for:

(1) coarse soils (sand and loamy sand) – at least enough moisture to form a ball when compressed by hand, that may break when tapped;

(2) loamy, moderately coarse, or medium textured (coarse sandy loam, sandy loam, fine sandy loam) – at least enough moisture so that soil forms a ball that holds together when tapped;

(3) fine texture soils (clay loam, silty clay loam, sandy clay, silty clay, sandy clay loam, and clay) – at least enough moisture so that the soil is pliable, not crumbly.

(c) Fumigations must start no earlier than one hour after sunrise and must be completed no later than one hour before sunset except for the method described in subsection (e)(9), (10), and (11).

(d) Fumigation methods using post-water treatments must be applied at a rate of 0.15-0.25 inches per hour and meet one of the following water requirements depending on soil texture:

(1) coarse soils - a minimum of 0.40 inches of water per acre.

(2) loamy, moderately coarse, or medium texture soils - a minimum of 0.30 inches of water per acre.

(3) fine texture soils - a minimum of 0.20 inches of water per acre.

(e) The metam-sodium or potassium N-methyldithiocarbamate (metam-potassium) field soil fumigation must be made using only the methods described in this section. However, within the San Joaquin Valley, Southeast Desert, or Ventura ozone nonattainment areas, methods (1), (4), and (9) are prohibited. In addition to labeling requirements for each of these methods, the following requirements shall apply.

(1) Sprinkler/Broadcast or Bed/One Post-Fumigation Water Treatment

(A) Fumigation must be completed in a time that allows compliance with the post-fumigation water treatment below and meet the requirements in subsection (d):

1. Water must be applied by an irrigation method that uniformly covers the treated area in the entire application block.

2. On the day of fumigation, one post-fumigation water treatment must begin within 30 minutes of the completion of fumigation.

3. Any additional post-fumigation water treatment(s) may be applied at any time.

(2) Sprinkler/Broadcast or Bed/Two Post-fumigation Water Treatments

(A) Fumigation must be completed in a time that allows compliance with the post-fumigation water treatments below and meet the requirements in subsection (d):

1. Water must be applied by an irrigation method that uniformly covers the treated area in the entire application block.

2. On the day of fumigation, the first post-fumigation water treatment must begin within 30 minutes of the completion of fumigation. A second post-fumigation water treatment must start no earlier than one hour prior to sunset on the day of fumigation and completed by midnight.

3. Additional post-fumigation water treatment(s) may be applied at any time provided the treatments required above are completed in the specified time periods.

(3) Sprinkler/Broadcast or Bed/Three Post-fumigation Water Treatments

(A) Fumigation must be completed in a time that allows compliance with the post-fumigation water treatments below and meet the requirements in subsection (d):

1. Water must be applied by an irrigation method that uniformly covers the treated area in the entire application block.

2. On the day of fumigation, the first post-fumigation water treatment must begin within 30 minutes of the completion of fumigation. A second post-fumigation water treatment must start no earlier than one hour prior to sunset on the day of fumigation and completed by midnight.

3. On the day following fumigation, a third post-fumigation water treatment must be applied starting no earlier than one hour prior to sunset and completed by midnight.

4. Additional post-fumigation water treatment(s) may be applied at any time provided the treatments required above are completed in the specified time periods.

(4) Nontarpaulin/Shallow/Broadcast or Bed/One Post-fumigation Water Treatment

(A) Fumigation must be completed in compliance with the post-fumigation water treatments pursuant to subsection (e)(1)(A).

(5) Nontarpaulin/Shallow/Broadcast or Bed /Two post-fumigation Water Treatments

(A) Fumigation must be completed in compliance with the post-fumigation water treatments pursuant to subsection (e)(2)(A).

(6) Nontarpaulin/Shallow/Broadcast or Bed/Three Post-fumigation Water Treatments

(A) Fumigation must be completed in compliance with the post-fumigation water treatments pursuant to subsection (e)(3)(A).

(7) Chemigation (Drip System)

(A) Drip system must be filled with water and tested for pressure variation, clogged emitters, and leaks before chemigation. The pressure must not exceed the pressure rating of the drip tape and the pressure variation in the drip tape throughout the field must be less than three pounds per square inch. Drip system must be free of leaks and clogged emitters.

(B) After chemigation, the drip system must be flushed with a volume of water at least three times the volume of the mainline and laterals of the drip system.

(8) Rotary Tiller/Power Mulcher/Soil Capping

(A) Application equipment must be followed immediately by soil compaction equipment.

(9) Flood

(A) The fumigant must be applied with at least four inches of water per acre.

(10) 1:00 AM Start/Nontarpaulin/Shallow/Broadcast/Two Post-fumigation Water Treatments

(A) The fumigation application must start no earlier than 1:00 a.m.

(B) Fumigation must be completed in compliance with the post-fumigation water treatments pursuant to subsection (e)(2)(A).

(C) The following application equipment and procedures must be used:

1. No more than 24 hours before application, thoroughly cultivate the field to remove clods with a disc or spring tooth bar. Soil must contain at least enough moisture pursuant to subsection (b).

2. The application equipment must meet the following criteria:

i. The shanks must be set on three application tool bars, with the bars spaced 12 to 16 inches apart from front to back. The shanks must be staggered on each tool bar to produce a final overall shank spacing of 9 to 11 inches.

ii. Injection depth on each shank must be 3 to 4 inches, 6 to 7 inches, and 9 to 10 inches.

iii. Nitrogen must be used to purge the system before applicator bar is lifted out of the ground at any time.

iv. The application tool bars must be followed by a ring roller that is at least as wide as the application tool bars, with four gauge wheels controlled by hydraulic cylinders to control depth and/or pressure; or with a coil packer that is at least as wide as the application tool bars.

(11) 4:00 AM/ Start/Sprinkler/Broadcast or Bed/Two Post-fumigation Water Treatments

(A) Notwithstanding (a), in the San Joaquin Valley, Southeast Desert, and Ventura ozone nonattainment areas the application rate must not exceed 260 pounds active ingredient per acre for metam-sodium or 290 pounds active ingredient per acre for potassium N-methyldithiocarbamate (metam-potassium).

(B) Fumigation must start no earlier than 4:00 a.m.

(C) Fumigation must be completed in compliance with post-fumigation water treatments pursuant to (e)(2)(A).

(12) Drench

(A) Notwithstanding (a), in the Sacramento Metro and South Coast ozone nonattainment areas, application rate must not exceed 246 pounds active ingredient per acre for metam-sodium or 270 pounds active ingredient per acre for potassium N-methyldithiocarbamate (metam-potassium). In the San Joaquin Valley, Southeast Desert, and Ventura ozone nonattainment areas, application rate must not exceed 90 pounds active ingredient per acre for metam-sodium or 98 pounds active ingredient per acre for potassium N-methyldithiocarbamate (metam-potassium).

(B) Fumigation must be completed in compliance with the post-fumigation water treatments pursuant to subsection (e)(2)(A).

(f) Notwithstanding subsection (e), a reduced volatile organic compound emission field fumigation method approved pursuant to section 6452 or a method for experimental research purposes pursuant to a valid research authorization issued according to section 6260 may be allowed.

NOTE: Authority cited: Sections 11456, 12976, 12981, 14005, and 14102, Food and Agricultural Code.
Reference: Sections 11501, 12981, 14006, and 14102, Food and Agricultural Code.

~~6452.2 Fumigant Volatile Organic Compound Emission Limits.~~

(a) The Director shall establish field fumigant volatile organic compound (VOC) emission limits in the Annual Volatile Organic Compound Emissions Inventory Report issued pursuant to section 6452.4 for areas where the difference between emissions in the most recent inventory report and the benchmarks for that area is five percent or less of the benchmarks or exceeds the benchmarks listed below during the May 1 through October 31 time period:

Ozone Nonattainment Area	Total Agricultural and Structural VOC Emissions Inventory Benchmarks from May 1 to October 31
Ventura in 2011	1,200,000 lbs. (3.3 tons/day average)
Ventura in 2012 and later	1,100,000 lbs. (3.0 tons/day average)

(1) Notwithstanding (a), if a VOC emission limit is in effect that limit must remain in effect until the commissioner does not condition permits to include a fumigant emission allowance specified in (c)(1) or (d)(1), and does not deny any permit or notice of intent specified in (c)(2) or (d)(2) in order to comply with the fumigant emission limit for two consecutive years.

(b) The Director shall calculate the field fumigant VOC emission limits specified in (a) by subtracting the nonfumigant pesticide VOC emissions from the total agricultural and structural VOC emissions inventory benchmarks. Nonfumigant pesticide product emissions will be the summation of the pounds of each pesticide product used multiplied by the VOC content (emission potential) for the specific product.

(c) For the Ventura ozone nonattainment area, the commissioner shall ensure that the fumigant limits specified in (a) are not exceeded during the May 1 through October 31 time period using one or more of the following methods for field soil fumigations:

~~(1) Condition permit to include fumigant emission allowances.~~

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~~(C) Flood~~

~~(A) The fumigant must be applied with at least six inches of water per acre.~~

~~(e) Notwithstanding subsection (d), a reduced volatile organic compound emission field fumigation method approved pursuant to section 6452 or a method for experimental research purposes pursuant to a valid research authorization issued according to section 6260 may be allowed.~~

~~NOTE: Authority cited: Sections 11456, 12976, 12981, 14005, and 14102, Food and Agricultural Code.~~

~~Reference: Sections 11501, 12981, 14006, and 14102, Food and Agricultural Code.~~

6450.2. Dazomet Field Fumigation Methods.

(a) Fumigations must start no earlier than one hour after sunrise and must be completed no later than one hour before sunset.

(b) The field soil fumigation using dazomet is limited to methods specifically identified in the labeling. In addition to labeling requirements for each identified method, the fumigation must comply with the following.

(1) Fumigation must be completed in a time that allows compliance with the post-fumigation water treatments below:

(A) Water must be applied by an irrigation method that uniformly covers the treated area in the entire application block.

(B) On the day of fumigation, the first water treatment must consist of at least 0.20 inches of water, beginning within 30 minutes of the completion of fumigation. A second post-fumigation water treatment must consist of at least 0.20 inches of water applied starting no earlier than one hour prior to sunset on the day of fumigation and completed by midnight.

(C) On the day following fumigation, a third post-fumigation water treatment must consist of at least 0.20 inches of water, and must be applied starting no earlier than one hour prior to sunset and completed by midnight.

(D) On the second day following fumigation, a fourth post-fumigation water treatment must consist of at least 0.20 inches of water, and must be applied starting no earlier than one hour prior to sunset and completed by midnight.

(E) Additional post-fumigation water treatment(s) may be applied at any time provided the treatments required above are completed in the specified time periods.

(c) Notwithstanding subsection (b), a reduced volatile organic compound emission field fumigation method approved pursuant to section 6452 or a method for experimental research purposes pursuant to a valid research authorization issued according to section 6260 may be allowed.

NOTE: Authority cited: Sections 11456, 12976, 12981, 14005, and 14102, Food and Agricultural Code.

Reference: Sections 11501, 12981, 14006, and 14102, Food and Agricultural Code.

~~**6451. Sodium Tetrathiocarbonate Field Fumigation - General Requirements**~~

~~The provisions of section 6451.1 apply to field soil fumigation using sodium tetrathiocarbonate within the Sacramento Metro, San Joaquin Valley, South Coast, Southeast Desert, or Ventura ozone nonattainment areas below during the May 1 through October 31 time period. Replant of individual vine or tree-sites (tree holes) less than one contiguous acre, and raised-tarpaulin nursery fumigations of less than one acre, and greenhouses and other similar structures are not considered field soil fumigations under the provisions of section 6451.1.~~

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(g) Flood

(d) The fumigant must be applied with at least six inches of water per acre.

(e) Notwithstanding subsection (d), a reduced volatile organic compound emission field fumigation method approved pursuant to section 6452 or a method for experimental research purposes pursuant to a valid research authorization issued according to section 6260 may be allowed.

NOTE: Authority cited: Sections 11456, 12976, 12981, 14005, and 14102, Food and Agricultural Code.
Reference: Sections 11501, 12981, 14006, and 14102, Food and Agricultural Code.

6450.2. Dazomet Field Fumigation Methods.

(a) Fumigations must start no earlier than one hour after sunrise and must be completed no later than one hour before sunset.

(b) The field soil fumigation using dazomet is limited to methods specifically identified in the labeling. In addition to labeling requirements for each identified method, the fumigation must comply with the following.

(1) Fumigation must be completed in a time that allows compliance with the post-fumigation water treatments below:

(A) Water must be applied by an irrigation method that uniformly covers the treated area in the entire application block.

(B) On the day of fumigation, the first water treatment must consist of at least 0.20 inches of water, beginning within 30 minutes of the completion of fumigation. A second post-fumigation water treatment must consist of at least 0.20 inches of water applied starting no earlier than one hour prior to sunset on the day of fumigation and completed by midnight.

(C) On the day following fumigation, a third post-fumigation water treatment must consist of at least 0.20 inches of water, and must be applied starting no earlier than one hour prior to sunset and completed by midnight.

(D) On the second day following fumigation, a fourth post-fumigation water treatment must consist of at least 0.20 inches of water, and must be applied starting no earlier than one hour prior to sunset and completed by midnight.

(E) Additional post-fumigation water treatment(s) may be applied at any time provided the treatments required above are completed in the specified time periods.

(c) Notwithstanding subsection (b), a reduced volatile organic compound emission field fumigation method approved pursuant to section 6452 or a method for experimental research purposes pursuant to a valid research authorization issued according to section 6260 may be allowed.

NOTE: Authority cited: Sections 11456, 12976, 12981, 14005, and 14102, Food and Agricultural Code.
Reference: Sections 11501, 12981, 14006, and 14102, Food and Agricultural Code.

6451. Sodium Tetrathiocarbonate Field Fumigation - General Requirements.

The provisions of section 6451.1 apply to field soil fumigation using sodium tetrathiocarbonate within the Sacramento Metro, San Joaquin Valley, South Coast, Southeast Desert, or Ventura ozone nonattainment areas below during the May 1 through October 31 time period. Replant of individual vine or tree-sites (tree holes) less than one contiguous acre, and raised-tarpaulin nursery fumigations of less than one acre, and greenhouses and other similar structures are not considered field soil fumigations under the provisions of section 6451.1.

NOTE: Authority cited: Sections 11456, 12976, 12981, 14005, and 14102, Food and Agricultural Code.
Reference: Sections 11501, 12981, 14006, and 14102, Food and Agricultural Code.

~~6451.4 Sodium Tetrathiocarbonate Field Fumigation Methods.~~

~~(a) The field soil fumigation of sodium tetrathiocarbonate is limited to methods specifically identified in the labeling.~~

~~(b) Notwithstanding subsection (a), a reduced volatile organic compound emission field fumigation method approved pursuant to section 6452 or a method for experimental research purposes pursuant to a valid research authorization issued according to section 6260 may be allowed.~~

~~NOTE: Authority cited: Sections 11456, 12976, 12981, 14005, and 14102, Food and Agricultural Code.
Reference: Sections 11501, 12981, 14006, and 14102, Food and Agricultural Code.~~

~~6452. Reduced Volatile Organic Compound Emissions Field Fumigation Methods.~~

~~(a) For the Sacramento Metro and South Coast ozone nonattainment areas, the Director may approve use of a field fumigation method not described in sections 6447.3, 6448.1, 6449.1, 6450.1, 6450.2, and 6451.1 if the request is accompanied by scientific data documenting the volatile organic compound (VOC) emissions. The emission rating specified in section 6452.4 or the maximum emission rate (emission rating multiplied by the maximum application rate) must be no greater than any one of the methods for the same fumigant described in sections 6447.3, 6448.1, 6449.1, 6450.1, 6450.2, and 6451.1.~~

~~(b) For the San Joaquin Valley, Southeast Desert, and Ventura ozone nonattainment areas, upon written request, the Director may approve use of a field fumigation method either not described or excluded from use in sections 6447.3, 6448.1, 6449.1, 6450.1, 6450.2, or 6451.1 if the request meets the following criteria:~~

~~(1) The request is accompanied by scientific data documenting the VOC emissions;~~

~~(A) The emission rating, as specified in section 6452.4, is no greater than any one of the methods for the same fumigant allowed for use in the San Joaquin Valley, Southeast Desert, and Ventura ozone nonattainment areas as specified in sections 6447.3, 6448.1, 6449.1, 6450.1, 6450.2, or 6451.1, or~~

~~(B) The maximum emission rate (emission rating multiplied by the maximum application rate) is no greater than any one of the methods for the same fumigant allowed for use in the San Joaquin Valley, Southeast Desert, and Ventura ozone nonattainment areas as specified in sections 6447.3, 6448.1, 6449.1, 6450.1, 6450.2, or 6451.1.~~

~~(c) Criteria the Director shall consider includes whether:~~

~~(1) the data and information provided are sufficient to estimate emissions;~~

~~(2) the results are valid as indicated by the quality control data; and~~

~~(3) the conditions studied represent agricultural fields fumigated.~~

~~(d) The Director shall publish a notice of interim approval for a field fumigation method on the Department's Web site. The interim approval expires three years after the date of approval.~~

~~NOTE: Authority cited: Sections 11456, 12976, 14005, and 14102, Food and Agricultural Code.
Reference: Sections 11501, 14006, and 14102.~~

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~~NOTE: Authority cited: Sections 11456, 12976, 12981, 14005, and 14102, Food and Agricultural Code.
Reference: Sections 11501, 12981, 14006, and 14102, Food and Agricultural Code.~~

6451.1 Sodium Tetrathiocarbonate Field Fumigation Methods.

(a) The field soil fumigation of sodium tetrathiocarbonate is limited to methods specifically identified in the labeling.

(b) Notwithstanding subsection (a), a reduced volatile organic compound emission field fumigation method approved pursuant to section 6452 or a method for experimental research purposes pursuant to a valid research authorization issued according to section 6260 may be allowed.

NOTE: Authority cited: Sections 11456, 12976, 12981, 14005, and 14102, Food and Agricultural Code.
Reference: Sections 11501, 12981, 14006, and 14102, Food and Agricultural Code.

~~**6452. Reduced Volatile Organic Compound Emissions Field Fumigation Methods.**~~

~~(a) For the Sacramento Metro and South Coast ozone nonattainment areas, the Director may approve use of a field fumigation method not described in sections 6447.3, 6448.1, 6449.1, 6450.1, 6450.2, and 6451.1 if the request is accompanied by scientific data documenting the volatile organic compound (VOC) emissions. The emission rating specified in section 6452.4 or the maximum emission rate (emission rating multiplied by the maximum application rate) must be no greater than any one of the methods for the same fumigant described in sections 6447.3, 6448.1, 6449.1, 6450.1, 6450.2, and 6451.1.~~

~~(b) For the San Joaquin Valley, Southeast Desert, and Ventura ozone nonattainment areas, upon written request, the Director may approve use of a field fumigation method either not described or excluded from use in sections 6447.3, 6448.1, 6449.1, 6450.1, 6450.2, or 6451.1 if the request meets the following criteria:~~

~~(1) The request is accompanied by scientific data documenting the VOC emissions;~~

~~(A) The emission rating, as specified in section 6452.4, is no greater than any one of the methods for the same fumigant allowed for use in the San Joaquin Valley, Southeast Desert, and Ventura ozone nonattainment areas as specified in sections 6447.3, 6448.1, 6449.1, 6450.1, 6450.2, or 6451.1, or~~

~~(B) The maximum emission rate (emission rating multiplied by the maximum application rate) is no greater than any one of the methods for the same fumigant allowed for use in the San Joaquin Valley, Southeast Desert, and Ventura ozone nonattainment areas as specified in sections 6447.3, 6448.1, 6449.1, 6450.1, 6450.2, or 6451.1.~~

~~(c) Criteria the Director shall consider includes whether:~~

~~(1) the data and information provided are sufficient to estimate emissions;~~

~~(2) the results are valid as indicated by the quality control data; and~~

~~(3) the conditions studied represent agricultural fields fumigated.~~

~~(d) The Director shall publish a notice of interim approval for a field fumigation method on the Department's Website. The interim approval expires three years after the date of approval.~~

~~NOTE: Authority cited: Sections 11456, 12976, 14005, and 14102, Food and Agricultural Code.
Reference: Sections 11501, 14006, and 14102.~~

TEXT OF FINAL REGULATIONS

Current wording is indicated by regular type.
Proposed deletions are indicated by ~~strikeout~~.
Proposed additions are indicated by underline.

DIVISION 6. PESTICIDES AND PEST CONTROL OPERATIONS CHAPTER 2. PESTICIDES SUBCHAPTER 4. RESTRICTED MATERIALS ARTICLE 4. FIELD FUMIGATION USE REQUIREMENTS

Amend section 6452 to read:

6452. Reduced Volatile Organic Compound Emissions Field Fumigation Methods.

(a) For the Sacramento Metro and South Coast ozone nonattainment areas, the Director may approve use of a field fumigation method not described in sections 6447.3, 6448.1, 6449.1, 6450.1, 6450.2, and 6451.1 if the request is accompanied by scientific data documenting the volatile organic compound (VOC) emissions. The emission rating specified in section ~~6452.4~~ 6881 or the maximum emission rate (emission rating multiplied by the maximum application rate) must be no greater than any one of the methods for the same fumigant described in sections 6447.3, 6448.1, 6449.1, 6450.1, 6450.2, and 6451.1.

(b) For the San Joaquin Valley, Southeast Desert, and Ventura ozone nonattainment areas, upon written request, the Director may approve use of a field fumigation method either not described or excluded from use in sections 6447.3, 6448.1, 6449.1, 6450.1, 6450.2, or 6451.1 if the request meets the following criteria:

(1) The request is accompanied by scientific data documenting the VOC emissions;

(A) The emission rating, as specified in section ~~6452.4~~ 6881, is no greater than any one of the methods for the same fumigant allowed for use in the San Joaquin Valley, Southeast Desert, and Ventura ozone nonattainment areas as specified in sections 6447.3, 6448.1, 6449.1, 6450.1, 6450.2, or 6451.1, or

(B) The maximum emission rate (emission rating multiplied by the maximum application rate) is no greater than any one of the methods for the same fumigant allowed for use in the San Joaquin Valley, Southeast Desert, and Ventura ozone nonattainment areas as specified in sections 6447.3, 6448.1, 6449.1, 6450.1, 6450.2, or 6451.1.

(c) Criteria the Director shall consider includes whether:

(1) the data and information provided are sufficient to estimate emissions;

(2) the results are valid as indicated by the quality control data; and

(3) the conditions studied represent agricultural fields fumigated.

(d) The Director shall publish a notice of interim approval for a field fumigation method on the Department's Web site. The interim approval expires three years after the date of approval.

NOTE: Authority cited: Sections 11456, 12976, 14005, and 14102, Food and Agricultural Code. Reference: Sections 11501, 14006, and 14102.

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6452.1 Fumigant Volatile Organic Compound Emission Records and Reporting.

(a) Any person who applies field fumigants shall maintain records of fumigant applications pursuant to section 6624.

(b) Any person who applies field fumigants shall report the information specified in section 6626.

NOTE: Authority cited: Sections 11456, 12976, 14005, and 14102, Food and Agricultural Code.
Reference: Sections 11501, 14006, and 14102.

~~6452.2 Fumigant Volatile Organic Compound Emission Limits~~

~~(a) Beginning in 2011, the Director shall establish field fumigant volatile organic compound (VOC) emission limits in the Annual Volatile Organic Compound Emissions Inventory Report issued pursuant to section 6452.1 for areas that exceed 80 percent of the emissions benchmarks listed below during the May 1 through October 31 time period:~~

Ozone Nonattainment Area	Total Agricultural and Structural VOC Emissions Inventory Benchmarks from May 1 to October 31
...	...
...	...
...	...
...	...
Ventura	1,100,000 lbs. (3.0 tons/day average)

~~This subsection shall not apply to Ventura until 2012. The field fumigant VOC emission limits for the Ventura ozone nonattainment area prior to 2012 are established pursuant to subsection (c).~~

~~(b) The Director shall calculate the field fumigant VOC emission limits specified in (a) by subtracting the nonfumigant pesticide VOC emissions from the total agricultural and structural VOC emissions inventory benchmarks. Nonfumigant pesticide product emissions will be the summation of the pounds of each pesticide product used multiplied by the VOC content (emission potential) for the specific product.~~

~~(c) For the Ventura ozone nonattainment area, the Director establishes a field fumigant VOC emission limit of 1,214,000 pounds (average 3.30 tons/day) for applications that occur during May 1 to October 31, 2008. The Director shall establish field fumigant emission limits in Ventura for 2009, 2010, and 2011, in the Volatile Organic Compound Emissions Inventory Report pursuant to section 6452.4 by subtracting the fumigant emissions from the following benchmarks:~~

Amend section 6452.2 to read:

6452.2 Fumigant Volatile Organic Compound Emission Limits.

(a) The Director shall establish field fumigant volatile organic compound (VOC) emission limits in the Annual Volatile Organic Compound Emissions Inventory Report issued pursuant to section ~~6452.4~~ 6881 for the Sacramento Metro, South Coast, Southeast Desert, and Ventura ozone nonattainment areas where the difference between emissions in the most recent inventory report and the benchmarks for that area is five percent or less of the benchmarks or exceeds the benchmarks listed below during the May 1 through October 31 time period:

Ozone Nonattainment Area	Total Agricultural and Structural VOC Emissions Inventory Benchmarks from May 1 to October 31
Sacramento Metro	820,000 lbs. (2.2 tons/day average)
San Joaquin Valley	6,700,000 lbs. (18.1 tons/day average)
South Coast	3,200,000 lbs. (8.7 tons/day average)
Southeast Desert	340,000 lbs. (0.92 tons/day average)
Ventura in 2011	1,200,000 lbs. (3.3 tons/day average)
Ventura in 2012 and later	1,100,000 lbs. (3.0 tons/day average)

(1) ~~Notwithstanding (a),~~ if a VOC emission limit is in effect pursuant to (a) that limit must remain in effect until the commissioner does not condition permits to include a fumigant emission allowance specified in (c)(1) or (d)(1), and does not deny any permit or notice of intent specified in (c)(2) or (d)(2) in order to comply with the fumigant emission limit for two consecutive years.

(b) The Director shall calculate the field fumigant VOC emission limits specified in (a) by subtracting the nonfumigant pesticide VOC emissions from the total agricultural and structural VOC emissions inventory benchmarks. Nonfumigant pesticide product emissions will be the summation of the pounds of each pesticide product used multiplied by the VOC content (emission potential) for the specific product.

(c) For the Ventura ozone nonattainment area, the commissioner shall ensure that the fumigant limits specified in (a) are not exceeded during the May 1 through October 31 time period using one or more of the following methods for field soil fumigations:

- (1) Condition permit to include fumigant emission allowances.
- (2) Deny any permit or notice of intent that would cause the fumigant limit to be exceeded.
- (3) Condition permit to prohibit or require any of the methods allowed by sections 6447.3(a), 6448(c), 6449.1(b), 6450.1(d), or 6452 during the May 1 through October 31 time period.

(d) For ozone nonattainment areas other than Ventura, the Director shall select one or more of the following methods to ensure the fumigant limits specified in (a) are not exceeded during the May 1 through October 31 time period:

(1) The Director establishes a fumigant emission allowance for each permittee, based on information provided the commissioners within the ozone nonattainment area. The total allowances in each ozone nonattainment area must not exceed the fumigant limit established for that area. Commissioners shall issue permits or amend existing permits to comply with the fumigant emission allowance(s) established by the Director. Commissioners shall deny any notice of intent that does not comply with the permittees' fumigant emission allowances.

(2) Commissioners deny any permit or notice of intent that would cause the fumigant limit to be exceeded.

(3) Commissioners condition permits to prohibit or require any of the methods allowed by sections 6447.3(a), 6448(c), 6449.1(b), 6450.1(d), or 6452 during the May 1 through October 31 time period.

(e) No person may apply a field fumigant during the May 1 through October 31 time period in an ozone nonattainment area for which a fumigant emission limit has been established pursuant to ~~this section~~ (a), unless their restricted material permit includes conditions specified in (c) or (d), or notice of intent is approved in writing.

(f) For the San Joaquin Valley ozone nonattainment area, if the difference between emissions in the most recent emissions inventory report and the 6,700,000 pound (18.1 tons per day) benchmark for this area is five percent or less of the benchmark or exceeds this benchmark during the May 1 through October 31 time period, the provisions of section 6884 shall apply.

NOTE: Authority cited: Sections 11456, 12976, 14005, and 14102, Food and Agricultural Code.
Reference: Sections 11501, 14006, and 14102, Food and Agricultural Code.

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~~(c) Deny any permit or notice of intent that would cause the fumigant limit to be exceeded.~~

~~(3) Condition permit to prohibit or require any of the methods allowed by sections 6447.2(a), 6448(c), 6449.1(b), 6450.1(d), or 6452 during the May 1 through October 31 time period.~~

~~(e) No person may apply a field fumigant during the May 1 through October 31 time period in an ozone nonattainment area for which a fumigant emission limit has been established pursuant to this section, unless their restricted material permit includes conditions specified in (c) or (d), or notice of intent is approved in writing.~~

~~NOTE: Authority cited: Sections 11456, 12976, 14005, and 14102, Food and Agricultural Code. Reference: Sections 11501, 14006, and 14102, Food and Agricultural Code.~~

6452.3 Field Fumigant Volatile Organic Compound Emission Allowances.

(a) To obtain a field fumigant emission allowance, a permittee shall request an emission allowance by submitting information to the commissioner by a date designated by the commissioner. The information must include but is not limited to the following:

- (1) restricted materials permit number;
- (2) crop;
- (3) number of acres to be fumigated; and
- (4) identification of each site to be fumigated.

NOTE: Authority cited: Sections 11456, 12976, 14005, and 14102, Food and Agricultural Code. Reference: Sections 11501, 14006, and 14102, Food and Agricultural Code.

~~**6452.4 Annual Volatile Organic Compound Emissions Inventory Report.**~~

~~(a) The Director shall issue an annual emissions inventory report for the Sacramento Metro, San Joaquin Valley, South Coast, Southeast Desert, and Ventura ozone nonattainment areas. The emission inventory report must:~~

- ~~(1) report the total agricultural and structural (fumigant and nonfumigant) pesticide volatile organic compound (VOC) emissions for the previous years. Nonfumigant pesticide product emissions will be the summation of the pounds of each pesticide product used multiplied by the VOC content (emission potential) for the specific product. Fumigant product emissions will be the summation of the pounds of each pesticide product used multiplied by the emission potential for that specific product and VOC emission rating for the application method, as specified in (3);~~
- ~~(2) evaluate compliance with the total pounds of agricultural and structural VOC emissions specified in section 6452.2;~~
- ~~(3) establish fumigant emissions limits pursuant to section 6452.2 for the upcoming year;~~
- ~~(4) establish an emission rating for each field fumigation method described in sections 6446.1, 6447.3, 6448.1, 6449.1, 6450.1, 6450.2, 6451.1, or 6452. The emission rating will be expressed as a percentage of the amount of fumigant applied. The Director shall base the emission rating upon available scientific data documenting the VOC emissions.~~

~~(b) A draft emission report shall be made available to the public for comment. A 45-day public comment period will be provided to allow for submission of written statements or arguments to the Director for review before finalizing the Annual Volatile Organic Compound Emission Report. The emission report will be posted on the Department's Web site.~~

~~(3) Commissioners condition permits to prohibit or require any of the methods allowed by sections 6447.2(a), 6448(e), 6449.1(b), 6450.1(d), or 6452 during the May 1 through October 31 time period.~~

~~(e) No person may apply a field fumigant during the May 1 through October 31 time period in an ozone nonattainment area for which a fumigant emission limit has been established pursuant to this section (a), unless their restricted material permit includes conditions specified in (c) or (d), or notice of intent is approved in writing.~~

~~(f) For the San Joaquin Valley ozone nonattainment area, if the difference between emissions in the most recent emissions inventory report and the 6,700,000 pound (18.1 tons per day) benchmark for this area is five percent or less of the benchmark or exceeds this benchmark during the May 1 through October 31 time period, the provisions of section 6884 shall apply.~~

~~NOTE: Authority cited: Sections 11456, 12976, 14005, and 14102, Food and Agricultural Code.
Reference: Sections 11501, 14006, and 14102, Food and Agricultural Code.~~

CHAPTER 3. PEST CONTROL OPERATIONS
SUBCHAPTER 1. LICENSING
ARTICLE 5. AGRICULTURAL PEST CONTROL ADVISER LICENSES

Adopt section 6558 to read:

6558. Recommendation for Use of Nonfumigants in the San Joaquin Valley Ozone Nonattainment Area.

A licensed pest control adviser shall not recommend a use in violation with the provision in section 6884. If a licensed agricultural pest control adviser recommends the use of a high-volatile organic compound nonfumigant product implementing an exception under section 6884(b), the exception must be identified. A pest control adviser must retain a recommendation for a high-volatile organic compound product for at least two years.

NOTE: Authority cited: Sections 11456, 12976, and 14102, Food and Agricultural Code.
Reference: Sections 11501, 12003, and 14102, Food and Agricultural Code.

ARTICLE 6. PEST CONTROL DEALER LICENSES

Adopt section 6577 to read:

6577. Sales of Nonfumigants for Use in the San Joaquin Valley Ozone Nonattainment Area.

(a) When sale of a high-volatile organic compound (VOC) nonfumigant product with agricultural uses, specified in the Annual Volatile Organic Compound Emissions Inventory Report required in section 6881, is made to or for the operator of the property with an operator identification number issued by a county agricultural commissioner in the San Joaquin Valley ozone nonattainment area, the licensed pest control dealer shall provide the following VOC information, in writing, at time of purchase or delivery:

High-volatile organic compound nonfumigant products containing abamectin, chlorpyrifos, gibberellins, or oxyfluorfen as a primary active ingredient are subject to additional use restrictions during May 1 through October 31 when used in the San Joaquin Valley ozone nonattainment area on the following crops: alfalfa, almond, citrus, cotton, grape, pistachio, and walnut. Use prohibitions that may apply are found in Title 3, California Code of Regulations, section 6884. The operator of the property must obtain a written recommendation of a licensed pest control adviser prior to use on these crops during this time period.

(b) In addition to the requirements in section 6562, each licensed pest control dealer shall indicate on the invoice that the information required in (a) was provided.

NOTE: Authority cited: Sections 11456 and 12111, Food and Agricultural Code. Reference: Section 11501, Food and Agricultural Code.

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~~NOTE: Authority cited: Sections 11456, 12976, 14005, and 14102, Food and Agricultural Code.~~
~~Reference: Sections 11601, 14006, and 14102, Food and Agricultural Code.~~

6624. Pesticide Use Records

(a) The following persons shall maintain records of pesticide use:

(1) Any person who uses a pesticide for an agricultural use as defined in Food and Agricultural Code section 11408, other than use on livestock as defined in Food and Agricultural Code section 18663;

(2) Any person who uses a pesticide listed in section 6400;

(3) Any person engaged for hire in the business of pest control;

(4) Any person who uses a pesticide for industrial post-harvest commodity treatment; and

(5) Any person who uses a pesticide listed in section 6800(b) for any outdoor institution or outdoor industrial use.

(b) The records shall include the following information for each pest control operation:

(1) Date of application;

(2) Name of the operator of the property treated;

(3) Location of property treated;

(4) Crop commodity, or site treated;

(5) Total acreage or units treated at the site; and

(6) Pesticide, including the U.S. Environmental Protection Agency (U.S. EPA) or State registration number which is on the pesticide label, and amount used.

(c) In addition to the information required in subsection (b), the operator of the property which is producing an agricultural commodity, and an agricultural pest control business applying pesticides to such property, shall include in the records the following information for each pest control operation:

(1) Location of the property treated, by county, section, township, range, base and meridian;

(2) Hour the treatment was completed;

(3) The operator identification number issued to the operator of the property treated;

(4) The site identification number issued to the operator of the property treated;

(5) Total acreage (planted) or units at the site; and

(6) Name or identity of the person(s) who made and supervised the application, if the pesticide application was made by an agricultural pest control business.

(d) The operator of the property which is producing an agricultural commodity shall maintain records of pesticides applied by an agricultural pest control business to such property, by site.

(e) In addition to the information required in (b), effective January 1, 2002, persons engaged for hire in the business of pest control at a school site [defined in Education Code section 17609(e)] shall include in the records the following information for each pest control operation:

(1) Time application was completed;

(2) Name and address of the school site; and

(3) Application location at the school site. For purposes of this subsection, location includes, but is not limited to, classrooms, playgrounds, cafeteria, vehicles, and athletic fields.

(f) In addition to the information required in subsections (b) and (c), persons who use methyl bromide, 1,3-Dichloropropene, chloropicrin, metam-sodium, N-methyl dithiocarbamate (metam-potassium), dazomet, methyl iodide, or sodium tetrathiocarbonate field fumigants within the Sacramento Metro, San Joaquin Valley, South Coast, Southeast Desert, or Ventura ozone nonattainment areas shall include in the records a description of the method of application pursuant to sections 6446.1, 6447.3, 6448.1, 6449.1, 6450.1, 6450.2, 6451.1, or 6452.

(g) The records required pursuant to this section shall be retained for two years and made promptly available to the director or commissioner upon request.

NOTE: Authority cited: Sections 12976, 13145, 13188, and 14005, Food and Agricultural Code. Reference: Sections 11501, 11708, 11733, 13186, 14006, and 14011.5, Food and Agricultural Code.

Reference: Sections 11501, 11708, 11733, 12981, 14006, and 14011.5, Food and Agricultural Code.

~~6624. Pesticide Use Reports for Production Agriculture.~~

(a) The operator of the property which is producing an agricultural commodity shall report the use of pesticides applied to the crop, commodity, or site to the commissioner of the county in which the pest control was performed. This report must be submitted by the 10th day of the month following the month in which the work was performed. This report is not required if the pesticide use is reported to the commissioner by an agricultural pest control business as specified in subsection (b); however, the operator of the property treated shall retain a copy of the business' "Report by Site" for two years.

(b) An agricultural pest control business shall report the use of pesticides applied by it for the production of an agricultural commodity to the commissioner of the county in which the pest control was performed. This report must be submitted within seven days of completion of the pesticide application. A copy of the report shall be sent by the business to the operator of the property where the pest control was done within 30 days of completion of the pesticide application.

(c) Each report of pesticide use pursuant to this Section shall be on a department form or in a format approved by the director. Acceptable department forms include form 38-017 for an operator of the property to report pursuant to subsection (a), and 39-025 for an agricultural pest control business to report pursuant to subsection (b). The information to be reported shall include the information specified in Section 6624, and the name and address of the agricultural pest control business which made the application, if such a business made the application.

(d) A use report required by (a) or (b) for the application of a field soil fumigants in the Sacramento Metro, San Joaquin Valley, South Coast, Southeast Desert, and Ventura ozone nonattainment areas shall include the information specified in 6624(f) in addition to that required by this section.

(e) If the report is mailed, the postmark shall be the date of delivery.

(f) If the county in which work was performed has no commissioner, the report shall be made to the director.

NOTE: Authority cited: Sections 11456, 11502, 12976, 13145 and 14005, Food and Agricultural Code.

Reference: Sections 11501, 11708, 11733, 14006 and 14011.5, Food and Agricultural Code.

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~~(2) Name and address of the school site, and~~

~~(3) Application location at the school site. For purposes of this subsection, location includes, but is not limited to, classrooms, playgrounds, cafeteria, vehicles, and athletic fields.~~

~~(f) In addition to the information required in subsections (b) and (c), persons who use methyl bromide, 1,3-Dichloropropene, chloropicrin, metam-sodium, N-methyl dithiocarbamate (metam-potassium), dazomet, methyl iodide, or sodium tetrathiocarbonate field fumigants within the Sacramento Metro, San Joaquin Valley, South Coast, Southeast Desert, or Ventura ozone nonattainment areas shall include in the records a description of the method of application pursuant to sections 6446.1, 6447.3, 6448.1, 6449.1, 6450.1, 6450.2, 6451.1, or 6452.~~

~~(g) The records required pursuant to this section shall be retained for two years and made promptly available to the director or commissioner upon request.~~

~~NOTE: Authority cited: Sections 12976, 13145, 13188, and 14005, Food and Agricultural Code. Reference: Sections 11501, 11708, 11733, 13186, 14006, and 14011.5, Food and Agricultural Code.~~

~~Reference: Sections 11501, 11708, 11733, 13186, 14006, and 14011.5, Food and Agricultural Code.~~

6626. Pesticide Use Reports for Production Agriculture.

(a) The operator of the property which is producing an agricultural commodity shall report the use of pesticides applied to the crop, commodity, or site to the commissioner of the county in which the pest control was performed. This report must be submitted by the 10th day of the month following the month in which the work was performed. This report is not required if the pesticide use is reported to the commissioner by an agricultural pest control business as specified in subsection (b); however, the operator of the property treated, shall retain a copy of the business' "Report by Site" for two years.

(b) An agricultural pest control business shall report the use of pesticides applied by it for the production of an agricultural commodity to the commissioner of the county in which the pest control was performed. This report must be submitted within seven days of completion of the pesticide application. A copy of the report shall be sent by the business to the operator of the property where the pest control was done within 30 days of completion of the pesticide application.

(c) Each report of pesticide use pursuant to this Section shall be on a department form or in a format approved by the director. Acceptable department forms include form 38-017 for an operator of the property to report pursuant to subsection (a), and 39-025 for an agricultural pest control business to report pursuant to subsection (b). The information to be reported shall include the information specified in Section 6624, and the name and address of the agricultural pest control business which made the application, if such a business made the application.

(d) A use report required by (a) or (b) for the application of a field soil fumigants in the Sacramento Metro, San Joaquin Valley, South Coast, Southeast Desert, and Ventura ozone nonattainment areas shall include the information specified in 6624(f) in addition to that required by this section.

(e) If the report is mailed, the postmark shall be the date of delivery.

(f) If the county in which work was performed has no commissioner, the report shall be made to the director.

NOTE: Authority cited: Sections 11456, 11502, 12976, 13145 and 14005, Food and Agricultural Code.

Reference: Sections 11501, 11708, 11733, 14006 and 14011.5, Food and Agricultural Code.

CHAPTER 4. ENVIRONMENTAL PROTECTION
SUBCHAPTER 2. AIR
ARTICLE 1. TOXIC AIR CONTAMINANTS

Renumber section 6890 to 6864:

~~6890~~ 6864. Criteria for Identifying Pesticides as Toxic Air Contaminants.

A pesticide shall be identified as a toxic air contaminant if its concentrations in ambient air are greater than the following levels (for the purposes of this section, a threshold is defined as the dose of a chemical below which no adverse effect occurs):

(a) For pesticides which have thresholds for adverse health effects, this level shall be ten-fold below the air concentration which has been determined by the Director to be adequately protective of human health.

(b) For pesticides which do not have thresholds for adverse health effects, this level shall be equivalent to the air concentration which would result in a ten-fold lower risk than that which has been determined by the Director to be a negligible risk.

NOTE: Authority cited: Section 11456, Food and Agricultural Code. Reference: Sections 14021 and 14023, Food and Agricultural Code.

ARTICLE 2. VOLATILE ORGANIC COMPOUNDS

Adopt section 6880 to read:

6880. Criteria to Designate Low-Volatile Organic Compound (VOC) or High-VOC Nonfumigant Pesticide Products.

(a) The Director shall designate in the Annual VOC Emissions Inventory Report all nonfumigant products with agricultural uses containing the following primary active ingredients as low-VOC if the product has less than or equal to the product VOC emission potential listed below. All other products containing the primary active ingredients below with active or inactive registrations shall be designated as high-VOC.

<u>Product Primary Active Ingredient*</u>	<u>Product VOC Emission Potential (percent by weight)</u>
<u>Abamectin</u>	<u>35</u>
<u>Chlorpyrifos</u>	<u>25</u>
<u>Gibberellins</u>	<u>25</u>
<u>Oxyfluorfen</u>	<u>15</u>

*If a product contains more than one active ingredient, the primary active ingredient is the one present at the highest percentage in a product. These criteria do not apply to products that contain an active ingredient listed above, but not as the primary active ingredient, including products with one or more active ingredients present at the same percentage.

NOTE: Authority cited: Sections 11456, 12976, and 14102, Food and Agricultural Code. Reference: Sections 11501 and 14102, Food and Agricultural Code.

Renumber section 6452.4 to 6881 and amend to read:

6452.4. 6881. Annual Volatile Organic Compound Emissions Inventory Report.

(a) The Director shall issue an annual emissions inventory report for the Sacramento Metro, San Joaquin Valley, South Coast, Southeast Desert, and Ventura ozone nonattainment areas. The emissions inventory report must:

(1) report the total agricultural and structural (fumigant and nonfumigant) pesticide volatile organic compound (VOC) emissions for the previous years. Nonfumigant pesticide product emissions will be the summation of the pounds of each pesticide product used multiplied by the VOC content (emission potential) for the specific product. Fumigant product emissions will be the summation of the pounds of each pesticide product used multiplied by the emission potential for that specific product and VOC emission rating for the application method, as specified in ~~(54)~~;

(2) evaluate compliance with the total pounds of agricultural and structural VOC emissions specified in section 6452.2;

(3) establish fumigant emissions limits pursuant to section 6452.2 for the upcoming year;

(4) establish an emission rating for each field fumigation method described in sections 6446.1, 6447.3, 6448.1, 6449.1, 6450.1, 6450.2, 6451.1, or 6452. The emission rating will be expressed as a percentage of the amount of fumigant applied. The Director shall base the emission rating upon available scientific data documenting the VOC emissions;

(5) establish prohibitions on high-VOC nonfumigant products pursuant to section 6452.2(f), and if applicable, determine if prohibitions pursuant to section 6884(c) remain in effect;

(6) establish a list of the nonfumigant products that are designated as low-VOC pursuant to section 6880;

(7) establish a list of the actively registered nonfumigant products that are designated as high-VOC pursuant to section 6880.

(b) A draft emissions report shall be made available to the public for comment. A 45-day public comment period will be provided to allow for submission of written statements or arguments to the Director for review before finalizing the Annual Volatile Organic Compound Emissions Inventory Report. The emissions report will be posted on the Department's Web site.

(c) Low-VOC agricultural use products registered after the release of the Annual VOC Emissions Inventory Report and contain abamectin, chlorpyrifos, gibberellins, or oxyfluorfen as the primary active ingredient, will be listed in a supplemental report and posted on the Department's Web site. The products designated as low-VOC will be based upon the criteria established in section 6880.

NOTE: Authority cited: Sections 11456, 12976, 14005, and 14102, Food and Agricultural Code. Reference: Sections 11501 and 14102, Food and Agricultural Code.

Adopt section 6883 to read:

6883. Recommendation Requirements in the San Joaquin Valley Ozone Nonattainment Area.

In the San Joaquin Valley ozone nonattainment area, the operator of the property shall not apply a high-volatile organic compound nonfumigant product specified in section 6881 during May 1 through October 31 to one of the following crops unless they obtain the written recommendation of a licensed agricultural pest control adviser: alfalfa, almond, citrus, cotton, grape, pistachio, and walnut. The operator of the property shall retain the written recommendation for at least two years after the application occurs.

NOTE: Authority cited: Sections 11456, 12976, and 14102, Food and Agricultural Code. Reference: Sections 11501, 12003, and 14102, Food and Agricultural Code.

Adopt section 6884 to read:

6884. San Joaquin Valley Ozone Nonattainment Area Use Prohibitions.

Pursuant to section 6452.2(f), the following shall apply to agricultural uses of high-volatile organic compound (VOC) products specified in the Annual VOC Emissions Inventory Report required in section 6881 containing abamectin, chlorpyrifos, gibberellins, or oxyfluorfen as the primary active ingredient in the San Joaquin Valley ozone nonattainment area during the May 1 through October 31 time period.

(a) No person may apply a nonfumigant product that has been designated as a high-VOC pursuant to section 6880 and as specified in the Annual VOC Emissions Inventory Report required by section 6881 on the following crops: alfalfa, almond, citrus, cotton, grape, pistachio, and walnut. If the product is not listed as a low-VOC, it cannot be used.

(b) Notwithstanding (a), the following exceptions for use of high-VOC products are permitted:

- (1) Use of chlorpyrifos products to control aphids on cotton.
- (2) Use of gibberellins products when applied at an application rate of 16 grams of active ingredient per acre or less.
- (3) Use of oxyfluorfen products when applied at an application rate of 0.125 (1/8) pounds of active ingredient per acre or less.
- (4) Uses for which the U.S. Environmental Protection Agency has issued an emergency exemption from registration under Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act.
- (5) Uses registered as a Special Local Need under Section 24(c) of the Federal Insecticide, Fungicide, and Rodenticide Act.
- (6) Applications made by or under the direction of the U.S. Department of Agriculture, the California Department of Food and Agriculture, or county agricultural commissioner to control, suppress or eradicate pests.
- (7) Applications using precision spray technology meeting the criteria of the California Office of the Natural Resources Conservation Service's Environmental Quality Incentives Program.
- (c) If prohibitions for high-VOC nonfumigant products are in effect pursuant to section 6452.2(f), those prohibitions must remain in effect until the hypothetical VOC emissions shown in the Annual VOC Emissions Inventory Report comply with the limit specified in section 6452.2(f) for at least two consecutive years. The hypothetical VOC emissions during a year of prohibitions shall be calculated for each active ingredient used on each crop specified in section 6884. The hypothetical emissions shall be calculated by assuming the relative mixture of high and low-VOC products used in the current year of prohibitions would have been the same as in the most recent year without prohibitions. The VOC emissions are then calculated using that product mixture for the amount of active ingredient used in the current year.

The following formula represents how the hypothetical VOC emissions described above would be calculated for each pesticide-crop combination:

$$\begin{array}{l}
 \text{Hypothetical emissions} \\
 \text{for a pesticide-crop} \\
 \text{combination listed in} \\
 \text{section 6884 during} \\
 \text{May-Oct for the year} \\
 \text{of prohibitions}
 \end{array}
 =
 \frac{
 \begin{array}{l}
 \text{(Emissions for the pesticide-crop} \\
 \text{combination during May-Oct for the} \\
 \text{most current year without prohibitions)}
 \end{array}
 \times
 \begin{array}{l}
 \text{(Pounds active ingredient for the crop} \\
 \text{during May-Oct for the year of} \\
 \text{prohibitions)}
 \end{array}
 }{
 \begin{array}{l}
 \text{Pounds active ingredient for the crop during May-Oct} \\
 \text{for the most current year without prohibitions}
 \end{array}
 }$$

The total hypothetical VOC emissions will be the summation of the hypothetical emissions for each pesticide-crop combination, plus the actual VOC emissions for the remaining pesticides and crops not listed in section 6880.

(d) If the Director makes a determination that the removal of an active ingredient designated as a high-VOC in section 6880, or the removal of a crop in subsection (a), or the addition of an exception in subsection (b) will not affect the ability to comply with the limit specified in section 6452.2(f) (17.2 tons per day), then the Director may approve the interim removal and/or addition using the Annual VOC Emissions Inventory process described below in (e).

- (1) The Director's determination to remove an active ingredient shall be based on:
 - (A) the decrease in its use and emissions;
 - (B) the decrease being caused by factors that are likely to persist; and
 - (C) on a calculation of the inventory using the assumption that all applications to the crops

listed in subsection (a) would have used the product(s) containing the removed pesticide that would result in the highest VOC emissions for the two most recent years of the VOC emissions inventory.

(2) The Director's determination to remove a crop shall be based on:

(A) the decrease in use and emissions from products specified in section 6880 on this crop;

(B) the decrease being caused by factors that are likely to persist; and

(C) on a calculation of the inventory using the assumption that all applications to the removed crop would use the products containing the primary active ingredients listed in section 6880 that result in the highest VOC emissions for the two most recent years of VOC emissions inventory.

(3) The Director's determination to add an exception shall be based on the estimated VOC emissions that would result from allowing the exception based on the two most recent years of the VOC emissions inventory and study information. The study must:

(A) specify the maximum application rate (pounds per acre) of the high-VOC product of the added exception; and

(B) estimate the maximum number of acres that could be treated with a high-VOC product for the added exception during May-October, and the method to estimate the number of acres.

(C) No exception would be allowed unless the study shows a greater amount of an active ingredient must be applied using a low-VOC product to achieve the same efficacy as a high-VOC product.

(e) The Director shall publish the proposed interim removal of an active ingredient or crop, or the addition of an exception in the draft VOC emissions report specified in section 6881(b). The report must include a description of the calculations used to determine that the limit specified in section 6452.2(f) would not have been exceeded in the two most recent years, with the removal or addition. The report must also include a description of the changes in cropping patterns, pest management practices, product registration, regulatory requirements, or other factors that have caused a decrease in use and emissions, and are likely to persist. A 45-day public comment period will be provided to allow for submission of written statements or arguments to the Director for review before finalizing the Annual VOC Emissions Inventory Report. The emissions report will be posted on the Department's Web site. The removal or addition must be evaluated each year in the Annual VOC Emissions Inventory Report and may only remain in effect up to three years unless implemented through state and federal rulemaking.

NOTE: Authority cited: Sections 11456, 12976, and 14102, Food and Agricultural Code.

Reference: Sections 11501 and 14102, Food and Agricultural Code.

Adopt section 6886 to read:

6886. Dealer Responsibilities for the San Joaquin Valley Ozone Nonattainment Area.

Each licensed pest control dealer of a high-volatile organic compound (VOC) nonfumigant product specified in the Annual VOC Emissions Inventory Report, shall provide VOC information, in writing, to the purchaser at time of purchase or delivery pursuant section 6577 if the sale is made to or for the operator of the property with an operator identification number issued by a county agricultural commissioner in the San Joaquin Valley ozone nonattainment area.

NOTE: Authority cited: Sections 11456 and 12111, Food and Agricultural Code.

Reference: Section 11501, Food and Agricultural Code.