

# Inspection of Structures Prior to Introduction of Vikane

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**Date established** January 21, 2005

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**Enclosure to Enforcement Letter** Enforcement Letter ENF 05-03

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**Background** Recently, several incidents of structural fumigations with Vikane (sulfuryl fluoride) have resulted in the unintentional death of cats that have found their way inside a tarped structure.

Although notification procedures to occupants were apparently followed, in some incidents, this notification was not sufficient to prevent cats belonging to neighbors from entering the structure to be fumigated.

There currently is no provision in law requiring surrounding residents to be notified of a pending fumigation. However, the Structural Pest Control Board (SPCB) is pursuing an amendment to the Occupants Fumigation Notice and Pesticide Disclosure form (OFN) soliciting the support of homeowners and occupants to notify neighbors of the pending fumigation and repair any crawl space areas to exclude pets or domestic animals from entering.

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**Issue** The Department of Pesticide Regulation (DPR) believes there are sufficient regulatory mechanisms to prevent these unfortunate accidents; however, DPR feels the problem is serious enough to warrant thorough review of the Vikane label and existing regulatory controls.

While no new regulatory enforcement options are being recommended at this time, DPR feels the need to reiterate label language, and laws/regulations regarding the responsibilities of fumigators to thoroughly inspect the structure, ensuring no domestic animals or pets are present prior to introducing the warning agent, chloropicrin, and the fumigant, Vikane.

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# Inspection of Structures Prior to Introduction of Vikane,

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## Label language

The Vikane label (U.S. EPA registration number 62719-4), under Preparation for Fumigation, Structural Fumigation states “Remove from the structure to be fumigated all persons, **domestic animals, pets**, including fish, and desirable growing plants”.

“Removal from the structure” implies that the fumigator responsible for the fumigation should take all reasonably necessary steps, including a visual inspection of the structure prior to introducing the fumigant, to ensure compliance with this requirement. The fumigator may wish to document the steps taken, such as inspection date, time, areas inspected, and findings.

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## Interpretation of terms

Collectively, the terms **domestic animals**, and **pets** are interpreted to include those animals that belong to the occupant, as well as those that do not.

**Fumigator** means any individual licensed by the Structural Pest Control Board as a structural pest control operator, or as a structural pest control field representative in Branch 1. Fumigation.

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## What a structure includes

The “structure to be fumigated” includes **all** areas of the structure enclosed within the tarp. Although some areas may be spaces **not** typically occupied, such as the attic, sub-area, decks, porches, etc., or the space between the structure and tarp, these areas should be inspected **prior to introducing the fumigant** to ensure compliance with the label language.

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## Fumigator’s responsibilities

- It is ultimately the responsibility of the fumigator, prior to applying (introducing) Vikane into the structure, to ensure that there are no domestic animals, or pets, including fish, within any area enclosed by the tarp. This is particularly important if there are any areas accessible to domestic animals or pets.
- The fumigator should inspect the structure to be fumigated, both before enclosing the structure with the tarp, and again, immediately before introducing the warning agent, chloropicrin, and the fumigant, Vikane.

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# Inspection of Structures Prior to Introduction of Vikane, Continued

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## Laws

The following laws pertain to the responsibilities of all pesticide applicators and are citable sections for enforcement purposes:

California Food and Agricultural Code, Division 7. Agricultural Chemicals, Livestock Remedies, and Commercial Feeds:

- Section 12973 – Requires the use of any pesticide not to conflict with registered labeling.

Division 6. Pest Control Operations:

- Section 11791(b) – Makes it unlawful for any person subject to this division to do any of the following: operate in a faulty, careless, or negligent manner.
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## Regulations

The following regulations pertain to the responsibilities of all pesticide applicators and are citable sections for enforcement purposes:

Title 3, California Code of Regulations, Division 6. Pesticides and Pest Control Operations:

- Section 6600(b) – Requires each person to perform all pest control in a safe and effective manner.
  - Section 6614(a) – Requires an applicator to and while applying a pesticide to evaluate the equipment to be used, meteorological conditions, the property to be treated, and surrounding properties to determine the likelihood of harm or damage.
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## Enforcement Actions

As with any violation of pesticide laws or regulations that are supported by evidentiary facts, the County Agricultural Commissioner should impose the appropriate enforcement sanctions.

In cases where deceased domestic animals, or pets are discovered after a fumigation, the credibility of the evidence substantiating the steps taken to ensure label compliance should be considered on a case-by-case basis.

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