Appendix M

Methyl Bromide Field Fumigation Recommended Permit Conditions

Background
Formerly Subsection C.7.3, Part 7.3.2 – Methyl Bromide Field Fumigation Recommended Permit Conditions.

Introduction
In addition to labeling and California regulation requirements, DPR recommends the following permit conditions.

About the permit conditions
These permit conditions are a consolidation of certain methyl bromide regulations and label requirements, and are meant to clarify the use requirements in 3 CCR sections 6447 (general requirements), 6447.1 (notification), and 6447.2 (buffer zones). These permit conditions also clarify new label requirements for buffer zones, difficult to evacuate sites, emergency preparedness and response measures, tarp perforation and removal, and label references to buffer zones by specifying whether the requirements apply to the inner buffer zone or the outer buffer zone. DPR’s intent is that by complying with these permit conditions, permittees would simultaneously comply with the above-mentioned regulations and label requirements. These permit conditions also include all applicable chloropicrin permit conditions.

Consistent with 3 CCR section 6447, these permit conditions do not apply to:
- Greenhouses and other similar structures
- Potting soil
- Golf courses
- Replant of individual vine or tree-sites (tree holes) less than one contiguous acre, and
- Raised-tarpaulin nursery fumigations of less than one acre.

Greenhouse, potting soil, and other fumigations
For greenhouse fumigations with methyl bromide, follow Methyl Bromide Recommended Permit Conditions for Soil Fumigation Within a Greenhouse in Appendix I. For potting soil, follow Recommended Permit Conditions for Tarped Potting Soil Fumigation in Appendix G.2. For other fumigations to which DPR methyl bromide permit conditions do not apply, follow methyl bromide labeling restrictions, which include a minimum 25-foot buffer zone.

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For California, labeling for all methyl bromide products (even products that contain more than 50% chloropicrin) requires a buffer zone distance specified on the current restricted materials permit, provided that the buffer zone distance is equal to or greater than the buffer zone distance specified in the December 8, 2004 California Department of Pesticide Regulation Methyl Bromide Field Fumigation Guidance Manual. Additionally, regulations specify that the commissioner may not allow a buffer zone that is smaller or a duration that is less in permit conditions than those listed in Methyl Bromide Field Fumigation Buffer Zone Determination, Rev. 3/10. The buffer distances in the 3/10 document are the same as the 12/8/04 document.

Commissioners should determine buffer zone distances and durations using the Methyl Bromide Field Fumigation Buffer Zone Determination, Rev. 3/13. The only change in buffer distances is the deletion of the buffer zones for one fumigation method no longer allowed by labeling, the untarped/shallow/bed method described in 3 CCR section 6447.3(a)(1). The 3/13 document also reconciles the labeling requirements for buffer zone proximity with the recommended permit conditions for field separation. The 1300 feet (1/4 mile) separation to determine isolated and non-isolated blocks no longer applies. Other buffer zone requirements on the labels (e.g., buffer duration,) still apply. To view the buffer determination document, go to http://www.cdpr.ca.gov/docs/emon/pubs/tac/methbrom.htm.

Per 3 CCR section 6447(a), the operator of the property to be treated must submit a proposed work site plan (WSP) to the commissioner for evaluation at least 7 days prior to submitting a notice of intent. In addition, Phase 2 labeling requires the certified applicator supervising the application to verify and sign a site-specific Fumigation Management Plan (FMP) before the start of the application. Commissioners have the option to require submission of only the WSP document as per 3 CCR section 6447(a). In that case, the supervising certified applicator must complete a separate FMP document prior to application, but need not submit the FMP to the CAC.
Fumigation Management Plan and work site plan
(continued)

Alternatively, Commissioners have the option to require a single comprehensive document that covers both requirements. To cover both requirements with a single document, the operator of the property to be treated shall submit a proposed FMP to the commissioner for evaluation at least 7 days prior to submitting the notice of intent, and include all elements specified by the label (except those that are required just prior to application, such as soil moisture), plus a description of:

- The notification procedure to property operators pursuant to section 6447.1(b);
- Any activities within the buffer zone(s) as specified in sections 6447.2(e) and (f); and
- Any workday/work hour limitations and respiratory protection as specified in sections 6784(b)(2)(C) and (b)(3).

Notification to neighbors and emergency preparedness and response measures

NOTE to the commissioner: These recommended permit conditions consolidate the notification requirements in 3 CCR section 6447.1 with the label notification requirements for Emergency Preparedness and Response. These permit conditions comply with both sets of requirements. The underlined text below shows the additional requirements needed to comply with labeling. If triggered, the labels’ Emergency Preparedness and Response measures require either notification or monitoring. If the consolidated notification procedure is followed, monitoring would not be needed.

Initial notification

The certified applicator supervising the fumigation and the operator of the property to be treated shall assure that operators of the following properties within 300 feet of the perimeter of the outer buffer zone receive notification that a permit to use methyl bromide near their property has been issued by the commissioner: properties that contain schools, residences, hospitals, convalescent homes, onsite employee housing, or businesses.
Methyl Bromide Field Fumigation Recommended Permit Conditions, Continued

**Initial notification (continued)**

Notification shall be in writing, in both English and Spanish, or by other means approved by the commissioner. The operator of the property to be treated shall assure that notification is delivered at least seven days prior to the submission of the notice of intent. The notification shall include the following information:

- The name of the chemical(s) to be applied;
- **Name of fumigant product(s) and the EPA Registration number**;
- Name, business address, and business telephone number of the operator of the property to be treated;
- **Contact information for the applicator**;
- Name, business address, and business telephone number of the commissioner;
- The earliest and latest dates that the fumigation will start (**must not range more than 4 weeks**);
- How to request subsequent notification of specific date and time of the fumigation;
- Location of the application block;
- **Early signs and symptoms of exposure to the fumigant(s) applied, what to do, and who to call if you believe you are being exposed (911 in most cases); and**
- How to find additional information about fumigants.

**Specific notification when requested**

The operator of the property to be treated shall assure that specific notification of the date and time of the start of the fumigation and anticipated expiration of buffer zones is provided to those persons notified above who request specific fumigation information. This specific fumigation notification shall be provided at least 48 hours prior to starting the fumigation. If a request for specific notification is received after the submission of the notice of intent and before the fumigation begins, the specific fumigation notification shall be provided prior to starting the fumigation, but the 48-hour requirement shall not apply. If the fumigation of an application block does not commence within the time frame specified in 6447.1(a)(2), then a new notification must be provided to those persons who requested the information, but the 48-hour requirement shall not apply unless required by the commissioner.

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General buffer zone requirements

The inner and outer buffer zones mentioned in 3 CCR section 6447.2 must extend outward from the edge of the application block perimeter equally in all directions.

In general, all non-handlers, including field workers, residents, pedestrians, and other bystanders, must be excluded from the inner and outer buffer zones during the buffer zone period. Specific exceptions may be approved by the commissioner within the outer buffer zone (see “Outer buffer zone” section below).

The buffer zone restrictions shall begin at the start of fumigation. The buffer zone restrictions shall remain in effect for at least 48 hours after the completion of the application to the application block.

Inner buffer zones

The operator of the property to be treated shall assure that no persons are allowed within the inner buffer zone mentioned in 3 CCR section 6447.2 except to transit by vehicle or bicycle and perform fumigation-handling activities.

Inner buffer zones are not permitted to include bus stops or other locations where persons wait for public transit.

The inner buffer zone shall not extend into adjoining agricultural property except as provided below:

The inner buffer zone may extend into adjoining agricultural property if the adjoining property operator gives written permission and allows the operator of the property to be treated to post the inner buffer zone boundary on the adjoining property with signs. If such written permission is given, the operator of the property to be treated shall assure that:

- The inner buffer zone boundaries on the adjoining property are posted with signs while the buffer zone is in effect; and
- The signs are posted at intervals not exceeding 200 feet.

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Inner buffer zones (continued)

Unless there is a physical barrier that prevents bystander access to the inner buffer zone, inner buffer zone signs must also be placed along or outside the perimeter of the inner buffer zone, at all usual points of entry, and along likely routes of approach from areas where people not under the owner’s control may approach the buffer zone.

- Some examples of points of entry include, but are not limited to, roadways, sidewalks, paths, and bike trails.
- Some examples of likely routes of approach include, but are not limited to, the area between a buffer zone and a roadway, or the area between a buffer zone and a housing development.

Inner Buffer Zone signs must meet the following criteria:
- The printed side of the sign must face away from the application block toward areas from which people could approach.
- Signs must remain legible during the entire posting period and must meet the general standards outlined in the WPS for sign size, text size, and legibility (see 40 CFR §170.120).
- Signs must be posted no sooner than 24 hours prior to the start of the application and remain posted until the buffer zone period has expired.
- Signs must be removed within 3 days after the end of the buffer zone period.
- Inner Buffer Zone signs which meet the criteria above will be provided at points of sale for applicators to use.
- The Inner Buffer Zone signs must contain the following information:
  - “Do Not Walk” symbol
  - DO NOT ENTER/NO ENTRE
  - Methyl Bromide [Product Name] Fumigant BUFFER ZONE
  - Contact information for the certified applicator in charge of the fumigation

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**Inner buffer zones (continued)**

*Exception:* If multiple contiguous blocks are fumigated within a 14-day period, the entire periphery of the contiguous blocks' buffer zones *may* be posted. *Inner Buffer Zone* signs must be posted no sooner than 24-hours prior to the start of the first application. The signs must remain posted until the last buffer zone period expires and signs must be removed within 3 days after the buffer zone period for the last block has expired.

Inner buffer zones must not include buildings under the control of the owner of the application block and used for storage (e.g., sheds, barns, garages), UNLESS,

1. The storage buildings are not occupied during the buffer zone period, and
2. The storage buildings do not share a common wall with an occupied structure.

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**Outer buffer zones**

The operator of the property to be treated shall assure that no persons are allowed within the outer buffer zone except to transit by vehicle or bicycle, perform fumigation-handling activities, and commissioner-approved activities as identified in the restricted materials permit conditions. In no instance shall persons be allowed within the outer buffer zone for more than 12 hours in a 24-hour period.

The outer buffer zone shall not extend into properties that contain schools, convalescent homes, hospitals, and other similar sites determined by the commissioner.

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Outer buffer zones must not include residential areas (e.g., employee housing, private property), buildings (e.g., commercial, industrial), outdoor residential areas (e.g., lawns, gardens, play areas) and other areas that people may occupy, UNLESS,

- The occupants provide written agreement prior to the application that they will voluntarily vacate the buffer zone during the entire buffer zone period, and
- Reentry by occupants and other non-handlers must not occur until,
  - The buffer zone period has ended, and
  - Sensory irritation is not experienced upon re-entry.
  - For products containing more than 89% of methyl bromide, the certified applicator or handler(s) under his/her supervision has monitored the structures and has not experienced any sensory irritation upon re-entry. Entry by occupants and other non-handlers must not occur until two consecutive air samples for methyl bromide have been taken in the structure at least 1 hour apart and both samples indicate less than 1 ppm methyl bromide.

For publicly owned and/or operated areas such as parks, sidewalks, permanent walking paths, playgrounds, and athletic fields, outer buffer zones must not include these areas, UNLESS,

1. The area is not occupied during the buffer zone period,
2. Entry by non-handlers is prohibited during the buffer zone period, and
3. Written permission to include the public area in the buffer zone is granted by the appropriate state and/or local authorities responsible for management and operation of the area.

There is no requirement to post signs on the outer buffer zone perimeter. The labeling requirement for posting applies to the inner buffer zone.
Methyl Bromide Field Fumigation Recommended Permit Conditions, Continued

**Difficult to evacuate sites**

No fumigant application with an outer buffer zone greater than 300 feet is permitted within 1/4 mile (1,320 feet) of difficult to evacuate sites unless the site is not occupied by children from state-licensed day care centers, students (pre-K to grade 12), patients, or prisoners during the application and the 36-hour period following the end of the application.

No fumigant application with an outer buffer zone of 300 feet or less is permitted within 1/8 mile (660 feet) of difficult to evacuate sites unless the site is not occupied by children from state-licensed day care centers, students (pre-K to grade 12), patients, or prisoners during the application and the 36-hour period following the end of the application.

*NOTE to the commissioner: Based on local conditions, commissioners should determine whether the ¼ mile or 1/8 mile distance is measured from the fumigation to a difficult to evacuate site’s property line or occupied structure, and one of these should be specified in the permit conditions.*

*NOTE to the commissioner: When the outer buffer zone is more than 1020 feet, 3 CCR section 6447.2(i) still applies: When a school property is within 300 feet of the perimeter of the outer buffer zone, the injection shall be completed no less than 36 hours prior to the start of a school session. School session shall be those times when students are attending scheduled classes.*

**Tarp perforation and/or removal**

Tarps that qualify for any percentage reduction in buffer zone distance must not be perforated until a minimum of 9 days (216 hours) have elapsed after the application is complete, and must not be removed until a minimum of 1 day (24 hours) after perforation, unless a weather condition exists which necessitates early tarp perforation or removal as specified by the label. Tarps that qualify for reductions in buffer zone distances are listed in the methyl bromide portion of the U.S. EPA web site at [http://www2.epa.gov/soil-fumigants/tarps](http://www2.epa.gov/soil-fumigants/tarps).
Tarps that qualify for a reduction in buffer zone distance are generally prohibited for use with methyl bromide by 3 CCR section 6447(e). The recommended permit conditions allow these “high barrier” tarpaulins (e.g., totally impermeable films, virtually impermeable films) to be used with methyl bromide. This can be allowed as long as the permit conditions pertaining to the tarps (i.e., buffer distances, buffer duration, and tarp cutting intervals) are equally or more stringent than the regulations. Additionally, none of the buffer zone credits described on the label can be used for methyl bromide because they are not options in the 12/8/04 Guidance Manual.

Although not included in the permit conditions, use of metalized tarps should be discouraged because they may have disposal issues in California.