Pesticide Use Enforcement Program Standards Compendium

Volume 3

Restricted Materials and Permitting

Pesticide Use Enforcement
Program Standards Compendium

Volume 3. Restricted Materials and Permitting

Regulating pesticides in California is a joint responsibility of the Director of the Department of Pesticide Regulation (DPR) and county agricultural commissioners (CACs). Food and Agricultural Code (FAC) section 2281 provides that DPR is responsible for overall statewide enforcement and for issuing instructions and making recommendations to the CACs. The CACs are responsible for local administration of the pesticide use enforcement program. Several other FAC sections (11501.5, 12977, 12982, 14004.5, and 15201) state that the CACs work under the direction and supervision of the Director.

The contents of this volume supercede any position or direction on these subjects contained in previous letters to CACs or earlier manuals. Omitted items not in conflict with directions or positions contained in the Compendium may, however, continue to be used for interim guidance. DPR reserves the right to re-examine omitted topics and may readopt them or develop a new position or direction when necessary.

It should be noted that the procedures described in this document are intended solely for the guidance of employees of DPR and CACs. They do not constitute rulemaking by DPR. DPR and CACs may deviate from these procedures provided the deviation does not adversely impact the effectiveness of the county pesticide enforcement program or hinder effectiveness of DPR in fulfilling its responsibilities for the overall statewide enforcement program oversight.

New and updated procedures, policies, and interpretations will be issued in the form of updates to the Compendium. A summary of updates is located on the next page. Suggestions for changes, additions, or deletions to the Compendium should be made to DPR. The Compendium will be the reference against which county programs are evaluated. County performance can impact the mil assessment distribution money it receives.

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Restricted Materials and Permitting
Summary of Updates
Replacement Page Guide

Updates available at:
http://www.cdpr.ca.gov/docs/enfcmpli/compend/vol_3/rstrct_mat.htm

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Chapter 1

California's Restricted Materials Permitting Program

Introduction

Volume 3, *Restricted Materials and Permitting*, is part of the Pesticide Use Enforcement Program Standards, intended to assist the county agricultural commissioner (CAC) with different aspects of the restricted materials permit evaluation, review, and appeal processes.

Background

Permits for pesticide use originated in Imperial County in 1931. The concept of restricted materials was enacted into law in 1950, incorporating permits as a general requirement at the State level.

In 1976, an opinion by the California Attorney General determined that the issuance of county permits was subject to the requirements of the California Environmental Quality Act (CEQA) and therefore, required an environmental impact report (EIR) for the pesticide permit.

The Restricted Materials Permit Program (RMPP) was developed as an alternative program to provide for an abbreviated environmental review procedure that serves as the "functional equivalent" to a full-scale EIR normally required by CEQA. (For information on CEQA, see Public Resources Code section 21050, et seq. and Appendix D, *Environmental Impact Report Functional Equivalency*.) Although the State and the CACs do not need to prepare an EIR, documentation of environmental impacts, mitigation measures, and alternatives are required. The RMPP was designed to meet these requirements. This program requires the CACs to issue time specific and site specific permits for the agricultural use of restricted materials.

Core enforcement program

The core enforcement program encompasses related program areas to meet pesticide regulatory program mandates and strategic goals--this includes restricted materials permitting.

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Restricted materials permitting

The Department of Pesticide Regulation (DPR) and the CACs must assure that our restricted materials permit system protects people and the environment while allowing for effective pest control. Generally, in addition to use by or under the direct supervision of a certified applicator, applications of California restricted materials may occur only under a permit issued by the CAC. CACs must evaluate each proposed application before it occurs and document their determination that the application poses no unacceptable risks, or, that the permit is conditioned to mitigate identified hazards. CACs conduct pre-application site monitoring when they determine that only an on-site evaluation will allow an appropriate assessment of risk.

Restricted materials permit applicant

Title 3, California Code of Regulations (3 CCR) section 6428(c) requires permit applicants to identify all known areas that could be adversely affected by the use of restricted materials.

Permit applicants should plan their needs in advance, consider reduced use of restricted materials, and promote open dialogue with the people who live near application sites before applying for their permits. CAC involvement will ensure that the public receives accurate and complete information.

Why a pesticide is restricted

The criteria to designate a pesticide as a California "restricted material" include hazards to: public health, applicators, farm workers, domestic animals, honeybees, the environment, wildlife, or crops other than those being treated.

DPR may propose pesticides for designation as restricted materials at any time, often based on a review of data submitted by registrants, information obtained from field studies, or incident investigations. For example, pesticides found in ground water from routine agricultural use are designated as restricted materials to allow for greater local control over their use to prevent leaching to ground water.

Only DPR can give pesticides a "restricted material" designation and must do so through the regulation process.
(Reference: *Food and Agricultural Code* [*FAC*] *section 14004.5*)

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Quick reference list

For a complete list of California restricted materials, see 3 CCR section 6400(e). A quick reference, Appendix B, *California Restricted Materials Requirements*, is also available on-line at: http://www.cdpr.ca.gov/docs/enfcmpli/pr-pml-013a.pdf. *The most recent version of the codes should always be referenced before initiating an enforcement action.*

Federal restricted use pesticide classification

The Administrator of the U.S. Environmental Protection Agency (U.S. EPA) declares a pesticide to be a "restricted use pesticide" when he/she determines that when the pesticide is applied in accordance with its directions for use, it may generally cause, without additional regulatory restrictions, unreasonable adverse effects on the environment, including injury to the applicator. The Administrator shall classify the pesticide, or the particular use or uses to which the determination applies, to be a "restricted use."
(Reference: *Section 3(d)(1)(C)(i-ii) of FIFRA (Title 7, United States Code, section 136a)*)

Exempt materials

Food and Agricultural Code section 14006.7 requires the Director of DPR to designate by regulation, a list of exempt materials. The exempt materials may be used without a permit if the use conforms with the registered labeling. Exempt materials include those materials specified in 3 CCR section 6402. Materials or formulations of materials exempt from permit requirements are specified in 3 CCR sections 6414 and 6416.

Chapter 2

Restricted Use Pesticides and Restricted Materials

Introduction

This chapter defines *restricted use pesticides* (federal) and *restricted materials* (California) and includes additional use requirements for both federal and state.

Federal and state pesticide registration

Pesticide registrants must register their products with U.S. EPA before they apply for registration in California.

"Restricted use pesticides"-- federal designation

As a part of the federal registration process, U.S. EPA classifies **each pesticide product** as a "general use pesticide" or "restricted use pesticide" (RUP) based on the potential for the product to cause unreasonable adverse effects on human health or the environment when used according to label directions and without additional regulatory restrictions.
(Reference: *FIFRA section 3(d)(1)(C)*)

Banned and severely restricted use pesticides

U.S. EPA maintains a list of pesticides banned and severely restricted in the United States. U.S. EPA is mandated by FIFRA Section 17 to inform other governments about unregistered pesticide products exported from the U.S. and about pesticides against which action has been taken in the U.S. that may have significance for other countries.

Additional information

For additional information on U.S. EPA restricted use pesticides, see:
http://www.epa.gov/pesticides/regulating/restricted.htm

"Restricted materials"-- State (California) designation

DPR designates pesticides that can impair human health or pose hazards to the environment as "restricted materials." The law requires that this designation be made by regulation. Since States cannot require anything on pesticide labeling that differs from federal requirements, this is the only practical way it can be done at the State level. DPR usually designates restricted materials on the basis of active ingredient, concentration, container size, or use patterns on the labeling. The goal is to allow determination of the status by examining the product container and its labeling.
(Reference: *FAC section 14004.5*)

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California restricted materials defined

Title 3, CCR section 6400 designates certain pesticides as "restricted materials." Restricted materials may be defined as:

- Any pesticide labeled as a "restricted use pesticide" pursuant to section 3 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (Title 7, United States Code, section 136a);
- Any pesticide used under an "emergency exemption" issued pursuant to section 18 of FIFRA (Title 7, United States Code, section 136p);
- Pesticides formulated as a dust, labeled to permit outdoor use, and packaged in containers of more than 25 pounds [3 CCR section 6400(c) notes exceptions];
- Pesticide products containing active ingredients listed in 3 CCR section 6800(a) (potential to pollute ground water), when labeled for agricultural, outdoor institutional, or outdoor industrial uses; or
- Pesticides listed in 3 CCR section 6400(e).

(Reference: *3 CCR section 6400*)

Regulatory use requirements

Title 3, CCR section 6450, et. seq., further restricts the use of certain pesticides or active ingredients. These restrictions apply to all pesticide applications approved through the restricted materials permit process. Regulatory restrictions may include:

- The amount of pesticide that can be applied;
- Methods of application;
- Where the pesticide can be applied;
- Additional personal protective equipment that must be worn or used, etc.

The permit application process provides CACs with the opportunity to discuss the additional use restrictions with the property operator or pest control business well in advance of the actual application. Unlike permit conditions that are established by the CAC, regulatory use requirements are state regulations and are not attached to the permit.

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Additional use requirements

Pesticides designated as restricted materials (state or federal) have additional use requirements which may include some or all of the following:

- Applicator certification from DPR or the CAC;
- Enhanced supervision requirements for uncertified applicators;
- A restricted materials permit from the CAC; and
- Additional requirements established by regulation.

Chapter 3

Environmental Impact Report Functional Equivalency

Introduction

This chapter provides a brief history and overview of how CEQA impacts California's pesticide regulatory program. For an in-depth discussion of the EIR functional equivalency, see Appendix D, *Environmental Impact Report Functional Equivalency*.

California Environmental Quality Act

In 1970, California adopted CEQA as the State's main environmental law. The purpose of the act is to ensure that when public decisions are made, long-term protection of the environment is a major consideration. The act requires each public agency to consider the effects of their decisions and take every step necessary to provide California residents with clean air and water, and the enjoyment of California's nature, scenery, aesthetics, and history.

Provisions of the Act require an EIR for any project proposed or approved by a public agency, board, or commission that may have a significant effect on the environment.

Attorney General opinion

In 1976, the California Attorney General issued an opinion that the State's pesticide regulatory program had to comply with CEQA when registering a pesticide, or granting a license, permit, or certificate. This meant that DPR would have to prepare an EIR before registering a pesticide or issuing a permit to use a restricted pesticide.

Statutory resolution

It was determined that the preparation of EIRs for registration of pesticides and issuance of restricted material use permits was not feasible. Chapter 308, Statutes of 1978, provided for an abbreviated environmental review as the functional equivalent to a full-scale EIR.

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Program certified

The resulting pesticide regulatory program was submitted to the Secretary of the Resources Agency and was certified as "EIR functionally equivalent."

Certification means that DPR and the CACs do not have to prepare an EIR on each activity they approve. The Secretary of the Resources Agency can withdraw the functional equivalency if DPR and the CACs fail to carry out the program as prescribed.

Key elements of certification

Key elements of the program include:

- Documentation of local environmental impacts;
- Consideration of mitigation measures or feasible alternatives; and
- Consultation with other agencies.

It is essential that these three elements are included in every county restricted material permit program or certification of the state program may be in jeopardy.

Chapter 4

Private Applicator Certification

Introduction

This chapter describes DPR's Private Applicator Certification Program.

- DPR licensing and certification of commercial pesticide applicators are discussed in Volume 1, *General Information*.
- This chapter does not address commercial pesticide applicators such as those certified by the California Department of Consumer Affairs (Structural Pest Control Board) and the California Department of Health Services (Vector-Borne Disease Section).

About the Private Applicator Certification Program

The "Private Applicator Certification Program" was initially established in 1977 as a component of California's State Plan for Certification of Pesticide Applicators (commercial and private) who supervised or used restricted use pesticides. It resulted from amendments to FIFRA in 1972. In 1996, the Food and Agricultural Code was amended (FAC sections 14090 - 14099.5 were added to Division 6), separating the private applicator certification program from the restricted materials permitting process and establishing continuing education requirements for renewal. The program was designed to meet the U.S. EPA requirements for a private applicator certification program.

Private applicator defined

Private applicator is defined as:

- A person who uses or supervises the use of a restricted use pesticide for the purpose of producing an agricultural commodity on property owned, leased, or rented by him/her or his/her employer;
    - "Person" can be the operator of the property, the operator's authorized representative (with written authorization), or the operator's employee.
- A householder who uses or supervises the use of a restricted use pesticide outside their residence to control plant or turf pests on residential property owned, leased, or rented by the householder.

(Reference: *3 CCR section 6000*)

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Who may apply restricted materials?

Certified applicators, both private and commercial, may use or supervise the use of pesticides that are classified "restricted use pesticides" by the U.S. EPA or designated as "restricted materials" by DPR, without additional supervision. These individuals shall only work with uses covered by their certificate. Noncertified applicators may use restricted materials provided they are adequately supervised by a certified applicator.

Supervision of uncertified applicators

Whenever a noncertified applicator handles restricted use pesticides or restricted materials, they must be adequately supervised by a certified applicator. The level of supervision required is either specified on the restricted use pesticide label or in regulation.

For the most highly toxic pesticides, the label will define direct supervision to require the certified applicator to be *physically present* when the pesticide is handled by a noncertified applicator.

Federally restricted use pesticides are clearly identified by a box at the very top of the label's front panel that states the classification, the need for applicator certification, and the supervision requirement.

Example:

RESTRICTED USE PESTICIDE

Due to Reproductive Effects

For retail sale to and use only by certified applicators or persons under their direct supervision and only for those uses covered by the certified applicator's certification. Direct supervision for this product is defined as the certified applicator being physically present during mixing, loading, equipment repair and equipment cleaning. Certified applicators must ensure that all persons involved in these activities under their direct supervision are informed of the precautionary statements.

- When the pesticide labeling or regulations require that the certified applicator be physically present, the certified applicator must be physically located on the application site or contiguous parcel where the pesticide-handling activity is taking place.

- When two noncertified handlers are at the pesticide-handling site, the certified applicator must maintain either visual or two-way voice contact with the handlers.

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Supervision of uncertified applicators (continued)

- When only one noncertified handler is at the pesticide-handling site, the certified applicator must maintain the direct supervision and physically present "in-line of sight" visual standard. The certified applicator must be able to see the noncertified applicator and be assured that the applicator is safe. Voice contact alone to one noncertified handler does not meet this standard because of the possibility that a lone applicator may be unable to seek help should a medical emergency occur.

If the product label does not define the level of supervision required, then the certified applicator must comply with the supervision standards in 3 CCR section 6406, which requires the certified applicator to be aware of the conditions at the use site and be available to direct and/or control activities of the noncertified applicator. The proximity of the certified applicator to the use site shall be directly related to the actual or potential hazard of the situation.
(Reference: *3 CCR section 6406*)

Obtaining the Private Applicator Certificate

A private applicator must become certified by the CAC or the Director in any county in which there is no CAC. Certification is accomplished through a written examination process designed to evaluate the knowledge and abilities of a private applicator.

Each applicant must complete the *Private Applicator Certificate Application* form (PR-PML-045) prior to taking the examination. There is no fee for taking the Private Applicator Certificate (PAC) examination, obtaining the PAC card, or renewing the PAC card (recertification).

To become certified, a private applicator must demonstrate competency to use and supervise the use of restricted use pesticides and restricted materials properly and safely, by passing the written examination with a minimum score of 70%. Private applicators that pass the examination receive a DPR PAC card issued by CAC staff.

The examination is available in both English and Spanish. The only part of the Spanish examination written in English is the pesticide label. Federal law requires all certified applicators to be able to read and understand the registered labeling. U.S. EPA currently registers only labeling written in English.

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What information is on the examination?

Applicants shall be examined on the requirements of statutes and regulations concerning pesticide use and pest control operations including, but not limited to, knowledge of all of the following:

- Label directions and restrictions on use;
- Calibration;
- Pest control equipment;
- Pest problems and identification;
- Worker protection, including protective clothing and equipment; and
- Environmentally sensitive areas.

Study guide

The study guide for the PAC examination is the publication *Pesticide Safety--A Reference Manual for Private Applicators*, Publication 3383.

This publication may be purchased from the local Cooperative Extension Office; ordering from the Division of Agriculture and Natural Resources website at: http://anrcatalog.ucdavis.edu/; or by writing to:

Division of Agriculture and Natural Resources
University of California
6701 San Pablo Avenue
Oakland, California 94608

Request Publication 3383.

How is the examination administered?

The PAC examination must be administered and proctored by authorized CAC staff. **It is not a take-home examination or open book examination.** The examination is confidential, therefore, it must be kept under lock and key, accounted for, and accessed only by authorized CAC staff.

CAC staff provides the applicants with the examination questions, a separate answer sheet, and scratch paper. Applicants must not write or mark on the examination. Examination aids must not be used during the examination or any notes taken to prevent cheating or collusion.

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How is the examination administered? (continued)

Upon completion of the examination, county staff collects all examination materials, reviews the answer sheet, and determines whether the applicant passed or failed. Applicants who pass the examination are issued a PAC card. Applicants who fail the examination must wait at least seven calendar days before they may take the examination again.

Staff may not discuss the content of specific examination questions with applicants. If the applicant has any questions concerning the examination content during or after the examination, CAC staff may only give general advice in the subject area(s) that are giving the applicant difficulty.

The law provides that under exceptional circumstances an oral examination may be given. This may only be done in cases where in the CAC's opinion, a written examination would not accurately measure the competency or understanding by the applicant. CAC staff must document all examination results, whether written and oral.

How is the Private Applicator Certificate issued?

CAC staff issues a DPR PAC card to all private applicators that pass the PAC examination. Signatures of both the private applicator and the issuing CAC authorized representative must be on the card. The PAC expiration date is specified on the card, based on the three-year renewal cycle that the applicant passing the examination falls into. (See *FAC section 14095.*)

The PAC number is issued using the following format:

- PA-two digit county code number-sequential 5 digit numbering system-- (Example: PA-00-00000).

A photocopy of the front and back of the card is kept in the CAC files, as well as the applicant's Scantron® examination answer sheet.

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Renewing the Private Applicator Certificate

PAC card holders have two renewal options:

1. Complete six hours of DPR-approved continuing education (CE) every three years, including at least two hours of laws and regulations*; **or**
2. Retake and pass the private applicator certification examination.

*CE is prorated for private applicators renewing for the first time. Applicators with certificates valid for:

- Less than 12 months at the time of renewal--are exempt from the continuing education requirement.
- 12 to 24 months at the time of renewal--must complete four hours of continuing education, including at least two hours in laws and regulations.
- 25 to 36 months at the time of renewal--must take at least six hours of continuing education, including at least two hours of laws and regulations.

Completing CE

A course identification number is assigned when the CE course is approved by DPR. Documented proof of CE course completion must be submitted at the same time with the PAC renewal application, *Private Applicator Certificate Application* form (PR-PML-045). All CE hours must be obtained during the period the PAC is valid.

If all renewal requirements are met, authorized CAC staff will renew the PAC for the applicant's specified valid period.

Refusing, revoking, or suspending the Private Applicator Certificate

The PAC may be refused, revoked, or suspended by the CAC or Director for any of the following:

1. Failure to comply with any applicable provision of the FAC, Division 7 (Agricultural Chemicals, Livestock, Remedies, and Commercial Feeds) or any regulations adopted pursuant thereto.
2. Failure to supervise the use of a restricted use pesticide or restricted material in a manner that ensures compliance with Division 7 or any regulations adopted pursuant thereto.
3. Making any false or fraudulent report.

Any action by the CAC or Director described above (1 - 3) may be appealed, consistent with the procedures for appealing the suspension of a restricted material permit as prescribed in FAC section 11512.5 (see Chapter 10, *Grounds for Refusal, Revocation, and Suspension*).

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Additional information

Regardless of where it was issued, the PAC card is acceptable in any county when an applicant applies for a permit.

For additional information on CE and a listing of approved courses, see: http://www.cdpr.ca.gov/docs/license/conted.htm

Chapter 5

Permits and Exemptions

Introduction

A permit, like the requirement for a certified applicator, is commonly associated with restricted materials. However, in the case of a permit, this is somewhat inaccurate because there are many exemptions in statute and regulation from the need for a permit for restricted materials, as well as provisions for requiring a permit for non-restricted pesticides.

Some of the exemptions apply to individuals or entities and some are chemical-related. This chapter will discuss who needs a permit and who is exempt under specific circumstances.

Who needs a permit

Generally, the Food and Agricultural Code (sections 14006.5 and 14006.6) provides that permits are required for any possession or use of a restricted material and may be required for the agricultural use of a non-restricted material. However, there are exceptions and procedural requirements that apply in each situation.

Who does not need a permit

The primary permit exemptions are found in FAC section 14006.6 and 3 CCR section 6414. They include:

- Registrants (manufacturers)
- Pest control dealers
- Structural pest control businesses
- Commercial warehouses
- Common carriers

Permit exemptions

Food and Agricultural Code section 14006.6 and 3 CCR section 6414 exempts specified experimental or research purposes, primarily educational institutions and research authorizations issued by DPR, from permitting.

Food and Agricultural Code section 14006.7 also precludes requiring a permit for possession or use of exempt materials listed in 3 CCR section 6402.

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Permit exemptions (continued)

Food and Agricultural Code section 14006.6 authorizes DPR to add other permit exemptions by regulation.

DPR has adopted additional chemical-specific permit exemptions in sections 6414 and 6416:

- Federal Restricted Use Pesticides (not otherwise listed)
- Ground water protection pesticides (not otherwise listed) when used:
    - Outside of a ground water protection area;
    - For certain non-agricultural uses within a ground water protection area; and
    - Anywhere in an approved pest eradication program
- Antifouling paints
- Paints containing tributyltin

Exemptions found in 3 CCR section 6400 are not exemptions from the permit; rather, they are exemptions from restricted status.

CAC authority, permits for federal RUPs

The permit exemption for federal RUPs is conditional, as stated in 3 CCR section 6414(b). By that, we mean that the CAC has the authority to override the general exemption provision in his/her county and require a permit for any or all federal RUPs. The procedure for making the determination needed to justify requiring a permit should follow that described below for requiring a permit for non-restricted pesticides.

CAC authority, permits for non-restricted pesticides

The CAC has the authority (FAC section 14006.6) to require a permit for the agricultural use of a non-restricted pesticide. To implement this provision, the CAC must make a determination that the pesticide cannot be used under local conditions without presenting an undue hazard. Once made, the determination is permanent unless a sunset provision limiting the effective period is included. The determination may be cancelled in the same manner as it was established.

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Determination of undue hazard

The CAC's determination of "undue hazard" must describe the excessive or unwarranted hazard that results from the pesticide when used under a specific situation. The determination may apply to the entire county, a particular portion of the county, during particular times, or even the vicinity of the particularly sensitive areas. The statutes do not outline specific procedures for making the determination. However, it is recommended that public notice of the intention to require a permit and the basis be given and an opportunity for comment be provided. Consultation with county counsel may be considered. Mitigation measures or permit conditions should be issued with the permit, not designated in the actual determination.

Non-restricted permits and conditions

Non-restricted pesticide(s) subject to a permit may be treated the same as restricted materials within the county of issuance. However, although the CAC may require a permit, **this requirement does not make a non-restricted pesticide a "restricted material"** as defined in 3 CCR section 6400. This is an important distinction because the permit for a non-restricted pesticide must clearly specify in the permit conditions any desired use requirement that is normally required of all restricted materials. For example, a restricted material requires a Notice of Intent (NOI) to apply and use by or under the direct supervision of a certified applicator.

If the CAC determines an NOI or certified applicator is necessary to mitigate the undue hazard, he/she must specify the requirements in the permit conditions. The CAC may do this through a general condition that requires compliance with all laws and regulations applicable to restricted materials if, in fact, that is the goal.

Notification of action

Although approval by DPR is not required, CACs are requested to inform DPR of his/her determination, in writing, when requiring a permit for the agricultural use of a non-restricted pesticide. CACs who make a determination that a permit is required for a non-restricted pesticide must also inform pest control dealers and businesses of this requirement.

Chapter 6

Permit Requirements

Overview

Introduction

This chapter discusses general permit requirements, as well as the different requirements for agricultural and non-agricultural use restricted materials permits. This chapter also discusses requests for permit amendments.

Definitions

The following terms are used in this chapter:

- **Contiguous**: A property whose boundary is not broken by public road(s), rights-of-way, or permanent waterways. Each CAC would identify rights-of-way and permanent waterways in his/her respective county.
- **Site**: An area no larger than the property operator's contiguous property and no smaller than one crop location.

In this chapter

This chapter contains the following topics:

Topic	See Section…
General Permit Requirements	6.1
Agricultural Use Restricted Materials Permit Requirements	6.2
Non-Agricultural Use Restricted Materials Permit Requirements	6.3
Amending the Restricted Materials Permit	6.4

Section 6.1

General Permit Requirements

Permit required

Generally, any person that plans to use or possess a restricted material must first obtain a written permit from the CAC. The process to obtain a permit begins with the permit application. The application becomes a permit when it is signed by an authorized person (see page 6-3, *Who is qualified to issue permits*). For exemptions to permits, see Chapter 5, *Permits and Exemptions*. (Reference: *FAC section 14006.5*)

Only one permit is required for each operation, regardless of the number of sites involved, however, CACs may choose to issue separate agricultural use and non-agricultural use permits for the same operation.

Forms

Each application and permit to use or possess a restricted material must be on a form approved by DPR. All information required for a written NOI must also be on forms approved by DPR.
(Reference: *3 CCR section 6424*)

Restricted Materials Permit Program software provided to CACs by DPR has been approved by DPR and is consistent with the requirements of 3 CCR section 6424. Other permit software programs currently in use, the Restricted Materials Management System (RMMS) and Agriculture Geographic Information Systems (Ag GIS), are vendor supported and are based on the approved RMPP software.

DPR forms for use by CACs are available at the DPR website. See *Inspection and other forms used by County Agricultural Commissioners* at: http://www.cdpr.ca.gov/docs/enfcmpli/prenffrm/prenfmnu.htm

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Permit duration

The CAC may issue any permit for a one-year period, sometimes called a "seasonal" permit. The CAC may issue a permit for up to three years for the following sites:

- Perennial agricultural plantings;
- Non-production agricultural sites;
- Non-agricultural sites.

At the request of the applicant (permittee) or at the CAC's discretion, the CAC may issue a permit for shorter duration of one application or a short series of applications. This is sometimes called a "job" permit.
(Reference: *3 CCR section 6422*)

Who is qualified to issue permits

While anyone may complete the permit application, only qualified CAC personnel may evaluate the application and issue permits. Qualified personnel are those who possess one of the following licenses issued by the California Department of Food and Agriculture:

- County Agricultural Inspector/Biologist in the category of:
  - Pesticide Regulation; or
  - Investigation and Environmental Monitoring;
- Deputy County Agricultural Commissioner; or
- County Agricultural Commissioner.

(Reference: *FAC section 12844(d)*)

To whom can permits be issued

An agricultural use permit may only be issued to a property operator.

A non-agricultural use permit may be issued to either a property operator, pest control business, or both. It is the CAC's option to determine which or if both parties are required to obtain a non-agricultural use permit. (See Sections 6.2 and 6.3 for details on the permit differences.)
(Reference: *3 CCR section 6420*)

Continued on next page

Who may sign the permit?

A permit issued to a property operator must be signed by one of the following:

- Permittee (property operator); or
- Authorized representative.

A non-agricultural use permit issued to a pest control business must be signed by one of the following:

- Pest control business owner; or
- Qualified applicator licensee or certificate holder responsible to supervise the operations of the pest control business.

(Reference: *3 CCR section 6420*)

Documentation required for an authorized representative

The property operator's authorized representative, such as an employee or a licensed agricultural pest control adviser, may sign the permit. The authorized representative must provide the CAC with written documentation from the property operator to act on his/her behalf. The CAC must maintain a copy of the documentation with the permit.

CAC discretion

The CAC has the discretion not to accept a person as an authorized representative. It is up to the CAC to determine the circumstances of when a permit may not be signed by a particular authorized representative or by authorized representatives in general.

Continued on next page

Enforcement strategy for alternative signatures

Occasionally, a permittee will argue that they did not sign a permit, therefore, they are not responsible for violations resulting from failure to adhere to the conditions of a particular permit. Regulations make the permittee responsible for all permit conditions (*3 CCR section 6420*).

The CAC may hold any or all appropriate parties responsible, depending on evidence they have collected, relative to the violation. It is important to remember three things in respect to permits that are signed by an authorized representative:

1. The permittee (property operator) is responsible for compliance with all permit conditions. *3 CCR section 6420(c)*; AND
2. The permittee may allow or authorize someone else to sign the permit on his or her behalf. *3 CCR section 6420(a) and (b)*; AND
3. The person, who is not the property operator, when signing a permit in the name of the property operator, must provide written documentation from the permittee to act on his or her behalf. *3 CCR sections 6420(a) and (b).*

Responsibility requirements do not negate the need for the CAC to establish a connection between the permittee (property operator or pest control business) and the person (authorized representative or business representative) allowed to sign the permit when the CAC decides to initiate an enforcement action against the permit or permittee. The CAC must maintain evidence of a connection between the permittee and the person who signed the permit on behalf of the permittee.

What if the signatory leaves employment?

The permit remains valid through the date specified on the permit, unless otherwise revoked, even though the person signing the permit on behalf of the permittee is no longer employed by the permittee. However, if the signatory who left employment of the permittee was the certified applicator identified on the permit, the permittee must identify another certified applicator who will supervise the use of the restricted material before any further use of a restricted material. The permittee may identify the certified applicator, which could be a pest control business, either by requesting a permit amendment or by identifying the person at the time of the NOI.

Section 6.2

Agricultural Use Restricted Materials Permit Requirements

Introduction

Permits for the agricultural use of restricted material pesticides may be issued only to the operator of the property to be treated. The permittee (property operator) is responsible for compliance with all permit conditions, regardless of who signs the permit on their behalf.
(Reference: *3 CCR section 6420*)

"Agricultural use" defined

"Agricultural use" is defined in FAC section 11408. For a full discussion of the distinction between agricultural use and non-agricultural use, see Appendix E, *Understanding California's Definitions of Agricultural and Non-Agricultural Use Pest Control*.

Restricted materials permit application requirements

The permit application for the agricultural use of a restricted pesticide must include the information required by 3 CCR section 6428. With the exception of the map and the identification of the certified applicator as discussed below, the restricted materials permit application form and permit software have fill-in-the-blank sections for all the requirements of section 6428. All sections, except the "justification for non-ag use," must be filled out.

One of the items required is the identification of all known areas that could be adversely impacted by the use of the pesticide(s). This includes areas such as hospitals, schools, playgrounds, residential areas, labor camps, parks, lakes, waterways, wildlife management areas, livestock, or crops. An attached map or aerial photograph is generally used for designating such areas.

Another requirement is to include specific information about the certified applicator responsible for supervising the possession or use of the restricted material(s). The name of the pest control operator, if any, and the certified private or commercial applicator's name, business address, and license or certificate number with expiration date must be included on the permit application, or be provided at the time of the NOI. If the permit program in use does not have a specific section to include this information, it may be entered in the "contacts" section or a copy of the certification may be attached to the permit.

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Agricultural use permits are time and site specific

It is necessary to make the permit time specific and site specific in order to assess the effects of restricted use pesticides on the environment. Accordingly, the permittee is responsible to ensure that the CAC is notified at least 24 hours prior to commencing the use of a restricted material (NOI). This is a CEQA requirement. "Time specific" and "site specific" are defined in 3 CCR section 6000.
(Reference: *3 CCR sections 6422 and 6434*)

Adjustment to the 24 hours notice

The CAC may allow less than the required 24 hours notice for the NOI only when it is determined that:

- 24 hours will interfere with effective pest control; and/or
- 24 hours are not necessary to adequately evaluate the application.

Less than 24 hours notice should be the exception, not the rule. It is intended to address emergency situations; it is not intended to facilitate poor planning.
(Reference: *3 CCR section 6434*)

The CAC is authorized to require more than 24 hours for the NOI by permit condition.

Emergency provision

The pesticide use may be delayed for up to <u>four days</u> without refiling an NOI **<u>only if delays are caused by uncontrollable conditions</u>**, such as adverse weather or unavailability of equipment. This is strictly an emergency provision and should not be viewed as a convenience. See previous block.
(Reference: *3 CCR section 6000*)

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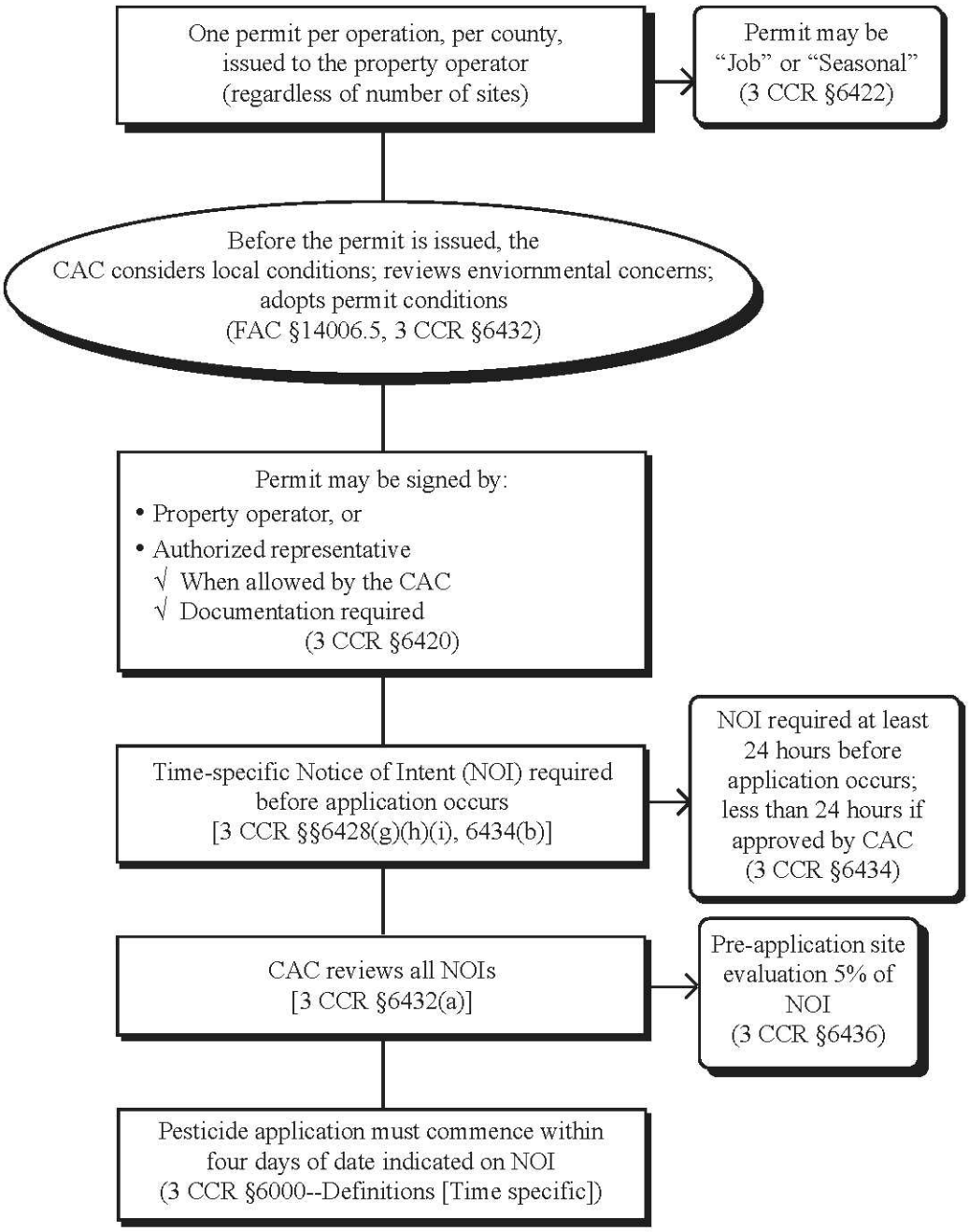
Agricultural use flow chart

The flow chart below summarizes the steps involved in issuing permits for agricultural use (*3 CCR section 6428*).



Section 6.3

Non-Agricultural Use Restricted Materials Permit Requirements

Introduction

Permits for non-agricultural use may be issued to the operator of the property to be treated, the pest control business licensee, or both. DPR and the CAC decide who is required to obtain the permit. The permittee is responsible for compliance with all permit conditions.

"Non-agricultural use" defined

There are a number of exclusions within the definition of agricultural use in FAC section 11408. By default, those exclusions define non-agricultural use. For a full discussion of the distinction between agricultural use and non-agricultural use, see Appendix E, *Understanding California's Definitions of Agricultural and Non-Agricultural Use Pest Control*.

Restricted materials permit application requirements

The permit application for the non-agricultural use of a restricted pesticide must include the information required by 3 CCR section 6430. There are a number of important differences between the information required for a non-agricultural use of a restricted material and the agricultural use of a restricted material.

One of the differences is that a non-agricultural permit application must identify the criteria used for determining the need for a restricted pesticide application. Another difference is that a certified private applicator is not qualified to be the certified applicator responsible for supervising the possession or use of the restricted material(s) for a non-agricultural permit.

Commodity fumigations

DPR recommends that all permits for commodity fumigations at fixed facilities be issued to the facility operator to properly evaluate potential impacts on the surrounding environment and the need for adequate mitigation measures.

When the treatment is done by a pest control business, either agricultural or structural, that business needs to be covered by permit conditions, either directly or through conditions on the facility operator's permit.

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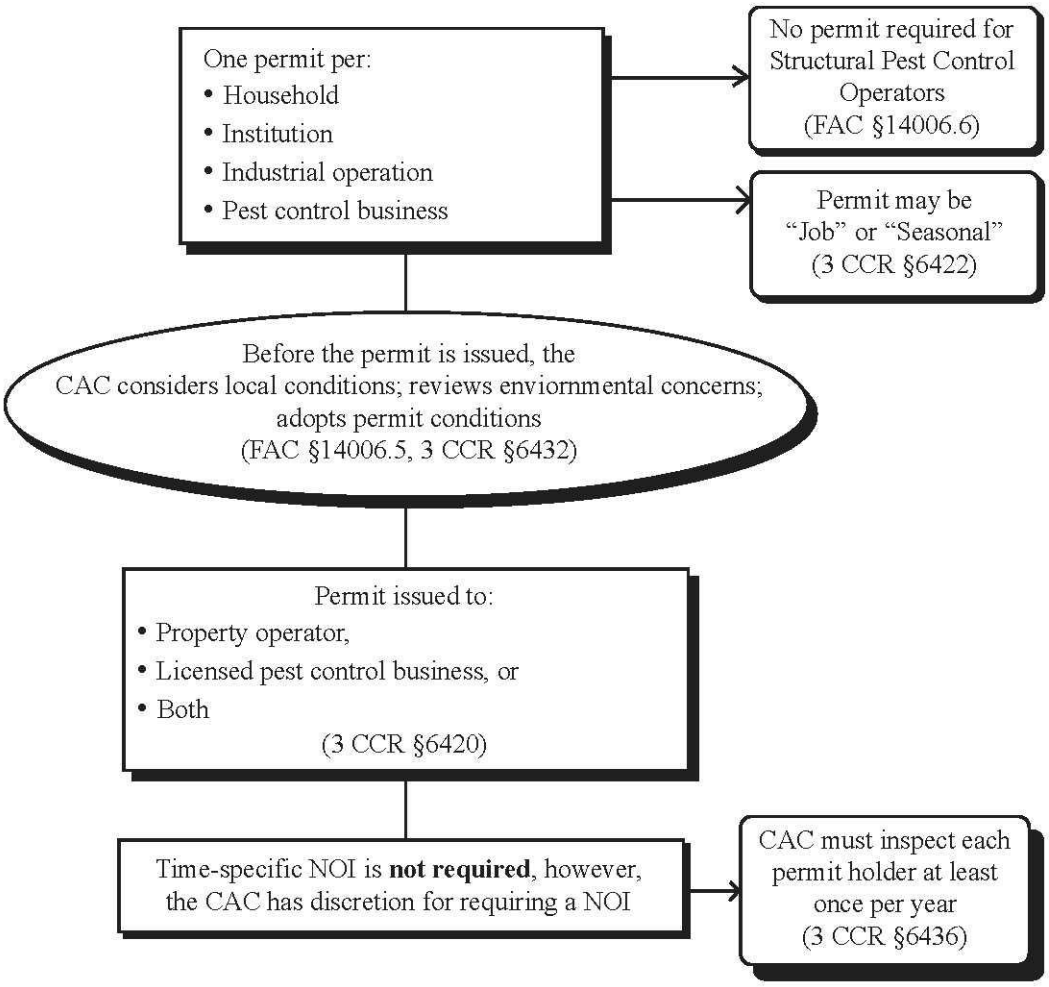
Non-Agricultural Use Restricted Materials Permit Requirements, Continued

NOIs for non-agricultural permits

The pesticide use of each non-agricultural permit holder must be inspected at least once per year regardless of the duration of the permit. Either a site evaluation or a use inspection may be conducted to meet this requirement. An NOI is not required by regulation for non-agricultural permits, however, a CAC has discretion to require an NOI as a permit condition. Requiring an NOI may be useful to facilitate inspections.
(Reference: *3 CCR section 6436*)

Non-agricultural use flow chart

The flow chart below summarizes the steps involved in issuing permits for non-agricultural use (*3 CCR section 6430*).



Section 6.4

Amending the Restricted Materials Permit

Permit amendments

If a permittee (or authorized representative) wishes to add a pesticide, commodity, or site to a restricted materials permit, he or she must submit an amendment request to the CAC. The amendment request may be in-person, fax, drop box, or mail.

CAC discretion

The CAC must exercise discretion regarding the types of permit amendment requests they accept by fax, drop box, or mail. This discretion must not impede fulfillment of the requirements of the permit program.

CAC approval

When considering an amendment application, the CAC must ensure that the requirements in 3 CCR, Division 6, Subchapter 4 (Restricted Materials), Article 2 (Possession and Use Limitations), are met. The permittee and CAC must sign and date the amendment. If the amendment was not approved in-person, the CAC may return the approved amendment to the permittee by fax or by mail.

The permittee should be made aware that a permit is not final, and a pesticide application cannot proceed, until he/she receives a signed copy from the CAC.

Minor permit changes

Minor permit changes, such as adding or deleting a pest, correcting the address, or adding or deleting a pest control business, may be amended by a telephone call.

Chapter 7

Permit Evaluations

Overview

Introduction

DPR's functional equivalency certification, and the regulations that were adopted to implement it, require the program to include, among other things, guidelines for the orderly evaluation of proposed activities and the preparation of the plan (permit) in a manner consistent with the environmental purposes of the regulatory program. Title 3, CCR sections 6420 through 6444 contains the requirements for the permit evaluation program.

Purpose

The purposes for our permitting process are to:

- Facilitate governmental and/or public review of the proposed application;
- Provide conditions to mitigate problems or hazards associated with the proposed application; and
- Ensure that alternatives are considered when there are unmitigated adverse environmental impacts.

Criteria for treatment

It is not intended that the CAC make technical judgments concerning the validity of particular thresholds or criteria, nor require that the insect pest level exceed the criteria. It is expected that the CAC review discrepancies with the permit applicant (grower) and his/her PCA.

In this chapter

This chapter contains the following topics:

Topic	See Section…
EIR Functional Equivalency Evaluation Requirements	7.1
Evaluating the Permit	7.2
Reviewing and Evaluating the Notice of Intent	7.3

Section 7.1

EIR Functional Equivalency Evaluation Requirements

Introduction

Public Resources Code section 21080.5 established requirements that the permit process must meet in order to comply with CEQA's EIR functional equivalency. This section outlines the steps that must be taken to properly consider the potential environmental impacts of the proposed restricted materials permit.

Additional information

For a complete discussion, see Appendix D, *Environmental Impact Report Functional Equivalency*.

Requirements diagrammed

These requirements are diagrammed in the chart *Overview of the Pesticide Permit Consideration Process Under Functional Equivalency Certification (Chart)* located at the end of this section.

Step 1 -- Hazard identification

Identify the hazards of the pesticide(s) to be used. Pesticide labeling, DPR risk characterization documents, other available information, and experience should all be used (*3 CCR section 6432*). A pesticide may have more than one identifiable hazard. In virtually all cases, there will be one or more identified hazards to some element of the public or environment.

Step 2 -- Identify sensitive sites

Determine if an element of the public or environment that could be adversely impacted by the particular hazard (sensitive site) is present and near enough to the treatment site to possibly be impacted. Runoff, leaching, and other off-site movement that can cause adverse impacts a considerable distance from the treatment site must be considered, as well as drift. People not involved in the application that may be exposed should always be considered a sensitive site. Be aware that sensitive sites may vary to some extent from pesticide to pesticide based on the specific hazards of the particular pesticide. Title 3, CCR section 6428 requires the permit applicant to include sensitive site information on the permit application.

Continued on next page

Step 3 -- Determine likelihood of adverse impact

If there is a sensitive site near the treatment area, the CAC should presume that there is a likelihood, or at least the potential, of substantial adverse environmental impacts. However, there may be data to support that it is not likely and the presumption can be rebutted.
(Reference: *3 CCR section 6432*).

Step 4 -- Existing mitigation

Determine if regulations or pesticide product labeling adequately mitigate the hazard or prohibit the application. If the hazard is addressed by requirements already in place, there may no longer be a likelihood of substantial adverse environmental impacts and therefore, no need for further mitigation. The permit may be issued. Permits are automatically conditioned upon compliance with the laws and regulations (*FAC section 14007*); duplication in permit conditions is not recommended. However, providing pertinent laws and regulations in the form of information is often desirable. It is also not necessary to duplicate labeling requirements as permit conditions, since pesticide use must not be in conflict with labeling (*FAC section 12973*).

For some pesticides, specific buffer distances are cited in the regulations, labeling, or recommended permit conditions. If not, the judgment of the CAC must be used.

Step 5 -- Additional mitigation

Title 3, CCR section 6426 requires the permit applicant (grower) and his/her pest control adviser to consider **mitigation measures** to reduce the risks of the use of a restricted material before applying for a permit. While this specific requirement is directed at agricultural use, the general requirement to consider mitigation measures applies to all permits. To determine compliance with this requirement, the CAC should ask the permit applicant to identify the mitigation measures that were considered and document his/her response. If the applicant acknowledges that they did not consider mitigation, the CAC should refuse the permit at this time and direct them to comply with section 6426.

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Step 5 -- Additional mitigation (continued)

Determine if there are any additional measures that would further mitigate the hazard. If there are, evaluate if they are reasonable, practical, and effective. If they are feasible, the CAC may issue the permit, conditioned upon use of those additional feasible mitigation measures. It is DPR's longstanding policy adopted at the initial granting of functional equivalency to consider and apply feasible mitigation measures before requiring that the CAC consider alternatives. However, this does not preclude the CAC from suggesting, or the user from considering, alternatives at any point in the permit process.

Step 6 -- Alternatives

Title 3, CCR section 6426 requires the permit applicant (grower) and his/her pest control adviser to consider **alternatives** to the use of a restricted material before applying for a permit. While this specific requirement is directed at agricultural use, the general requirement to consider alternatives applies to all permits. To determine compliance with this requirement, the CAC should ask the permit applicant to identify the alternatives that were considered and document his/her response. If the applicant acknowledges that they did not consider alternatives, the CAC should refuse the permit at this time and direct them to comply with section 6426.

If none of the potential mitigation measures considered in Step 5 are feasible and a likelihood of significant adverse environmental impact remains, it means the CAC must now consider alternatives. If there is a feasible alternative, the permit must be denied and the alternative used [FAC section 14006.5 reference to FAC section 12825(c)]. The alternative may be a non-pesticide procedure, a non-restricted material, or other permit material. If it is another permit material, it means the CAC returns to Step 1 and begins the process all over again with that alternative pesticide.

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Step 7 -- Risk benefit analysis

If none of the alternatives are feasible, the CAC must decide whether or not the pesticide has demonstrated "serious uncontrollable" adverse environmental effects [FAC section 14006.5 reference to FAC section 12825(a)].

If the CAC encounters a situation which he/she believes may involve a serious uncontrollable adverse effect, the CAC should hold off issuing the permit and consult the Enforcement Branch Liaison assigned to their county. This situation may indicate a need for reevaluation by DPR's Registration Branch.

If the CAC has reached this point in the permit consideration process, it means that the pesticide has been found:

1. To have hazards that pose substantial adverse environmental effects that;
2. Cannot be effectively prevented through mitigation, but;
3. There is no feasible alternative; and
4. These potential effects may have serious uncontrollable adverse effects.

To issue the permit, the CAC must address the question, "Are the benefits received from the use greater than the public risk or environmental detriment [*FAC section 14006.5 reference to FAC section 12825(b)*]?" If you cannot answer "yes" to this ultimate question, the permit must be denied.

In short, the benefits of the mitigated use must outweigh the public/environmental risk before a permit can be issued. This is usually a somewhat subjective question further complicated by the fact that often the benefits accrue to one person or firm, while the risk is borne by another group or thing.

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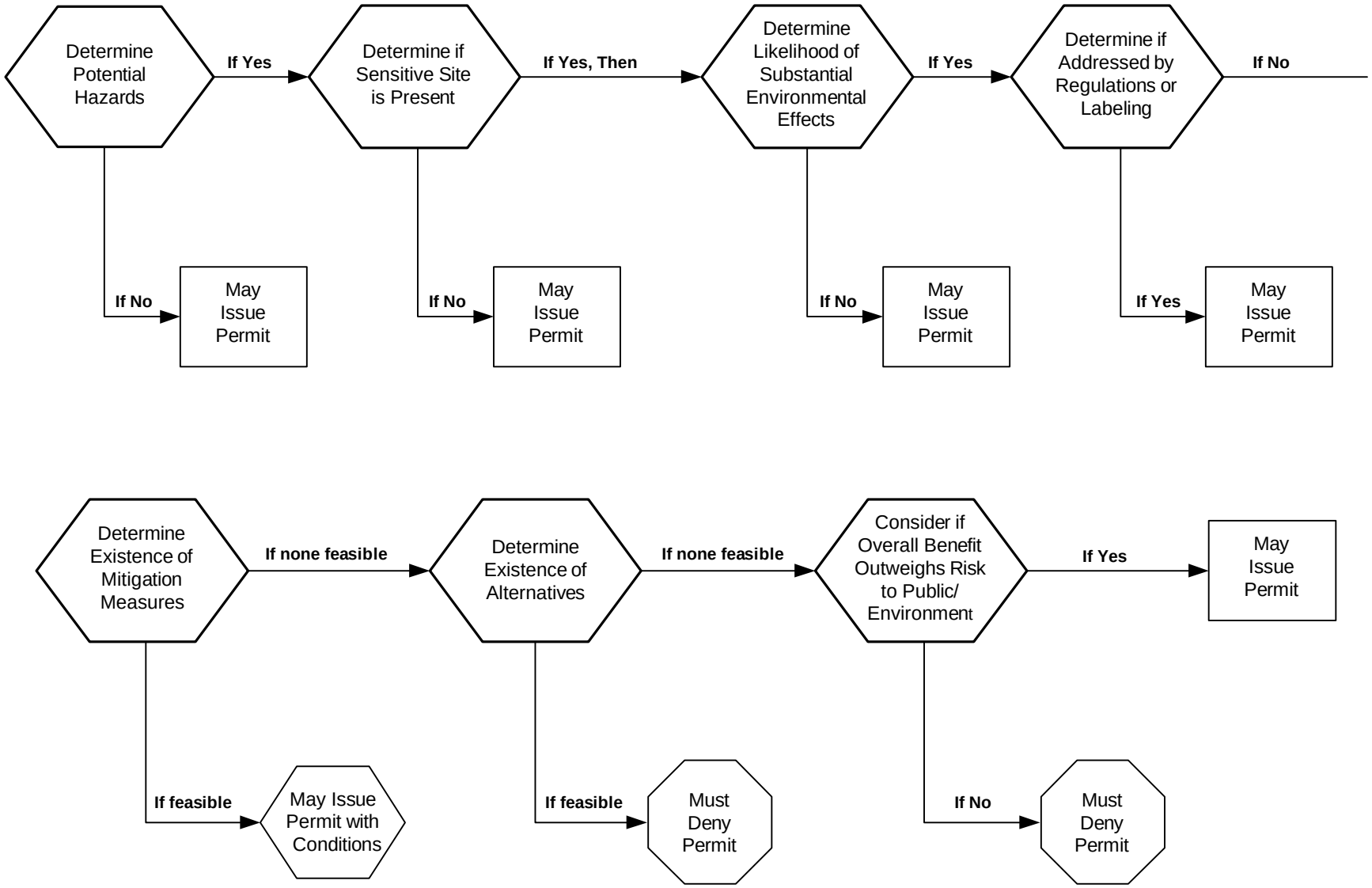
Requirement to refuse permit

Food and Agricultural Code section 12825 lists criteria that the Director *MAY* use to deny or cancel registration. However, FAC section 14006.5 (by its reference to FAC section 12825) **PROHIBITS** issuing a permit if FAC sections 12825(a - c) apply. "Reasonable, practical, and effective" is considered equivalent to "feasible" and "serious uncontrollable" is something worse than "substantial."

The law makes a distinction between "serious uncontrollable" and "substantial" effects but does not provide any definitions for guidance. The permit consideration process may proceed despite the pesticide having a substantial adverse environmental effect provided it is not a serious uncontrollable adverse effect. This is a judgment call the CAC must make on a case-by-case basis. To avoid the prohibition, mitigation must be available to reduce (control) the "serious" adverse effect to (only) "substantial" or less. If mitigation capable of accomplishing this is not available, it is a serious uncontrollable effect.

A Notice of Proposed Action (NOPA) may be required for this action; see Chapters 9 and 10 for specific direction.

Overview of the Pesticide Permit Consideration Process Under Functional Equivalency Certification



Section 7.2

Evaluating the Permit

Introduction

This section describes the process of evaluating the permit application prior to its issuance or denial by the CAC.

Key points for the evaluation process

The "permit evaluation" process is initiated with the receipt of the restricted materials permit application.

- The permit evaluation process is not completed simply because the application paperwork has been accepted by the CAC.

The permit evaluation process continues with the CAC's review of **each** NOI and possible pre-application site evaluation.

- The permittee keeps the permit evaluation process in play by timely filing an NOI with the CAC so the CAC may evaluate the proposed application.

The CAC's NOI review and acceptance or denial signals the completion of the evaluation process for that use of the restricted material at the proposed site and time.

- The evaluation process is not complete until the CAC has reviewed the NOI for each proposed application.

If any of the following information is not on the preliminary restricted materials permit (application), it must be included on the NOI:

- Date(s) or crop stage(s) of intended restricted material application(s);
- Method of application (including dilution, volume per acre or other units, and dosage); and
- Name of the pest control business (if any), name, business address, and license or certificate number with expiration date of the certified private or commercial applicator responsible for supervising the possession or use of the restricted material(s).

(Reference: *3CCR section 6434*)

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Agricultural permits

Permits issued for the agricultural use of pesticides are required to be site and time specific (see *3 CCR section 6000* for definitions of site specific and time specific), therefore, it is usually necessary that the NOI be submitted to the CAC at least 24 hours prior to commencing the use of the pesticide.

Non-agricultural permits

Non-agricultural permits are not required to be site or time specific. Unless specifically required by the CAC, they **do not** require NOIs.

NOI items to consider

NOI items for the CAC to consider include:

- Several methods can be utilized for filing NOIs, including: posting at specific sites, telephone, fax, mail, e-mail, or by electronic transmission. Different situations may require different methods of submittal.
- In cases where treatment will be on a continuous basis such as rights-of-way, nurseries, or spot treatments, the CAC may allow a pesticide use schedule to be submitted in lieu of the NOI. The use schedule must be in writing, attached to the permit, and updated when any changes in the schedule occur.
- In the case of specific commodities which may require repeated treatments at scheduled intervals, the CAC may allow one NOI at the commencement of treatments as long as the pesticide remains the same, the schedule is specified on the NOI, and there is no change in the schedule dates. This does not limit the CAC's authority to require a separate NOI for each treatment.

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Additional permit requirements

In addition to the information required by 3 CCR sections 6428 and 6430, the permit shall contain any appropriate conditions and limitations on the pesticide(s), such as:

- Requirements for notifying surrounding neighbors that the application will be made; or
- Pest management requirements or practices to minimize pesticide use.

The CAC is responsible for knowing local conditions and using his/her knowledge to make their determinations. Each CAC should also consider, and where appropriate, utilize:

- Food and Agricultural Code section 14006.5;
- Other applicable FAC sections;
- Title 3, CCR;
- Pest management guides;
- Information from monitoring other pest control operations; and
- DPR recommended permit conditions.

Information from sources such as available pest management guides or DPR recommended permit conditions for the pesticide, commodity, or site in question are considered informational only, not requirements. However, the CAC may make them requirements by identifying specific portions as permit conditions.

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DPR recommended permit conditions

DPR's scientific staff routinely perform evaluations of potential health and environmental impacts. DPR relies upon its scientists to review and use data, and their evaluations and analyses to develop "recommended permit conditions." As CACs typically do not employ pesticide or environmental scientists, researchers, or industrial hygienists, it is presumed they will base their permit conditions on DPR recommendations.

These recommended permit conditions reflect minimum measures necessary to protect people and the environment. CACs use this information, along with their evaluation of local conditions, to set site specific limits on pesticide applications. In order to maintain CEQA equivalency, CACs must have the authority and flexibility to restrict use permits to reflect local conditions at the time of the application. Therefore, the CACs may follow the DPR recommended permit conditions, or, may structure their own equivalent use restrictions. (See Appendix C, *Recommended Permit Conditions by Chemical*.)

Should the CAC choose not to follow DPR's recommended permit conditions, they must be able to articulate their reasons and explain how they addressed the hazards of the authorized pesticides. DPR will support the CAC's decisions and actions provided they result in adequate protection of human health and the environment.

Pesticide use reporting

The CAC should inform the permit applicant about pesticide use reporting requirements. The permittee should understand how to properly complete the pesticide use report. Failure to submit the report to the CAC may result in the cancellation of the permit, refusal of future permits, or civil penalties.

For additional information, see Volume 1, *General Information*.

DPR's web site also has information on pesticide use reporting at: http://www.cdpr.ca.gov/docs/pur/purmain.htm

Section 7.3

Reviewing and Evaluating the Notice of Intent

Introduction

This section describes the process of reviewing and evaluating the NOI prior to the pesticide application.

Purpose

The purpose of the NOI is to provide specific and critical information that was not available at the time the preliminary permit was issued.

Who is responsible for submitting the NOI?

The property operator (permittee) is responsible for assuring the NOI is submitted to the CAC's office. Others may submit the NOI on the property operator's behalf, but responsibility cannot be transferred (see *3 CCR section 6434*).

If the CAC finds an application taking place and the NOI has **not** been submitted, he/she may stop the application since it is not in accordance with the conditions of the permit.

The NOI ***is*** part of the permit.

Reviewing the NOI

The CAC is required to review all NOIs submitted to determine whether the:

- Location(s) of the proposed application matches the permit locations;
- Permit requirements from 3 CCR section 6428(g - i) are included, if necessary;
- Environmental conditions have changed since the permit was issued (this is the "local knowledge" of the CAC, or, it is specified by the permittee on the NOI); and
- Proposed application should be included in the CAC's pre-application site evaluation or application inspection monitoring activities considering the:
    - Permittee's history of noncompliance.
    - County's work plan.

Compare the NOI against the permit.

The NOI review "completes" the evaluation process, unless selected for a pre-application site evaluation.
(Reference: *3 CCR section 6434*)

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Evaluating the NOI

The CAC must review **all** NOIs submitted **prior** to the scheduled application.

- Compare the NOI against the permit. If the information has been provided on the permit, it may be referenced on the NOI. The NOI must provide the information listed in 3 CCR section 6434 concerning the proposed application. The person filing the NOI should be aware of what was initially considered on the map so that any changes can be indicated when the NOI is filed.
- Maps must be reviewed for accuracy each time the permit is issued or when changes in the surrounding area indicate an update in the map is necessary.
- Date and initial the map to show the most current edition whenever the permit is renewed or whenever the map is revised.
- If the permit applicant knows and indicates the treatment date(s) at the time of permit issuance (as well as other required information), there are no further NOI requirements.

Chapter 8

(Pre-Application) Site Evaluations

Introduction

A pre-application site inspection (*Pesticide Pre-Application Site Inspection*, form PR-ENF-102) is a site evaluation conducted before the application. It is the final step in the **permit evaluation** process for an intended application under the certified functional equivalency program. This part of the permit evaluation process is the final check to ensure the process has identified potential significant adverse environmental effects and applied mitigation measures or considered alternatives. Despite functional equivalency, permitted applications are subject to many of the requirements of CEQA.

Additional information

For a more complete discussion of how the permit process complies with CEQA see Appendix D, *Environmental Impact Report Functional Equivalency*. Instructions for completing a site evaluation are contained in Volume 4, *Inspection Procedures*.

Monitoring requirement

Title 3, CCR section 6436 (*Permit Monitoring*) requires (on-site) monitoring of a minimum of 5% of the permitted agricultural use sites. Every non-agricultural use permit holder must have either a site evaluation or a use inspection at least once per year.

The CAC's enforcement work plan will address the types and number of inspections that effectively monitor permitted applications. The plan must effectively address potential hazards presented by the use of restricted materials and other permit required pesticides in the county.

Site selection

Prioritize the sites to be evaluated based on the hazards of the pesticide, the proximity of sensitive areas, the potential for adverse effects, and the individual's noncompliance record. An on-site evaluation and a written recommendation review are conducted to assess the situation prior to application. This is intended to provide the CAC with the opportunity to mitigate any possible hazards by conditioning or denying the NOI or modifying the restricted materials permit.

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Site selection (continued)	The CAC is responsible for knowing local conditions, including meteorological conditions, and areas that may be adversely impacted by pesticide applications. Evaluate the potential hazards to nearby dwellings (homes, labor camps), buildings, recreational areas, schools, people not involved in the application (including those people likely to be doing field work at the time of the application), susceptible crops, bees, animals (livestock, pets), endangered or threatened species, and any other sensitive areas.

Chapter 9

Grounds for Refusal, Revocation, and Suspension

Introduction

Occasionally, the CAC has valid concerns about a permit application or an existing permit. Those reasons, once articulated, may result in the refusal of a permit application, revocation of an existing permit, or suspension of a permit. "Fundamental fairness" requires the CAC to articulate the reasons for their actions or proposed actions to the permit applicant, permit holder, or other interested persons.

About this chapter

This chapter describes the process that occurs after the CAC takes a revocation or suspension action on an existing restricted materials permit, or a person submits an application to obtain a restricted materials permit that must be refused.

CAC determination

The CAC is authorized to determine whether a permit will be issued or refused, or, an existing permit revoked or suspended. The CAC must articulate a reason or a basis for refusing, revoking, or suspending a permit, and then provide the NOPA and an opportunity to be heard on the matter. This fundamental fairness or "notice and hearing" process is often referred to as "due process." The procedural requirements for refusal, revocation, and suspension differ slightly, based upon the grounds (motive or reason) for the action.

Grounds and time frames for <u>immediate</u> suspension

Whenever the CAC has reason to believe that continuance of a permit endangers the public health, safety, or the environment, the CAC, without prior notice, may immediately suspend the permit.

1. The CAC shall inform the permittee, in writing, of the suspension as soon as practical, specifying the reason(s) for the immediate suspension.
2. Within seven days of informing the permittee of the immediate suspension, the CAC shall issue a written NOPA.
3. If a hearing is requested, it shall be held no later than seven days from the date the request for the hearing is received by the CAC.
4. The CAC's decision shall be issued within ten days after the conclusion of the hearing.

(Reference: *FAC section 11512.5*)

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Grounds based upon violations

Any permit may be refused, revoked, or suspended for:

- Violating any conditions of the permit, a previous permit, or any provision of FAC Division 7 or regulations issued pursuant to it;
- Failing to pay a civil penalty; or
- Failing to comply with any lawful order of the CAC, once that order is final.

These are clearly actions taken in response to prior violations alleged to have been committed by the permit applicant. Due process should parallel that for an administrative civil penalty.
(Reference: *FAC section 14008*)

Grounds based upon permit evaluation

If the CAC determines that a substantial adverse environmental impact will likely occur from the use of the pesticide, the CAC shall determine if there is a feasible mitigation measure or feasible alternative that would substantially reduce the adverse impact. The permit or intended pesticide application shall be conditioned on the utilization of the feasible mitigation measure or be refused. If the feasible alternative is not accepted by the permittee, the permit shall be refused. These actions are based on an evaluation of the permit application itself and the hazards posed by the use of a pesticide at that site.
(Reference: *3 CCR section 6432(a)*)

Grounds based upon FAC §14006.5

Food and Agricultural Code section 14006.5 states, ". . . no permit shall be granted if the commissioner determines that the provisions of subdivision (a), (b), or (c) of section 12825 would be applicable to the proposed use."

The "grounds" referred to FAC section 12825(a), (b), and (c) are:

- There are demonstrated serious uncontrollable (unmitigated) adverse effects;
- The use is of less public value or greater detriment to the environment than the benefit received by its use; or
- There is a reasonable, effective, and practicable alternative material or procedure that is demonstrably less destructive to the environment.

These grounds are also based on hazards posed by the use of the pesticide at a particular site rather than any alleged violation committed by the applicant.
(Reference: *FAC section 12825*)

Continued on next page

About 3 CCR §6444

Title 3, California Code of Regulations section 6444, states that if any pesticide residues, symptoms, or health hazards appear generally throughout the area, the Director or CAC may conduct a field inspection. If it appears that a substantial loss, damage, or injury is likely to result from the continued application of a specific pesticide within the area, the Director or CAC may cancel all permits for applications of that pesticide within the affected area and not issue any additional permits.

This section is intended to be used when the Director or CAC makes a finding based upon facts and wants to cancel or refuse restricted materials permits for "generalized effects" **in an area** (such as a county or a portion of a county). Section 6444 is not intended to be used as the grounds for canceling or refusing the permit of an individual.

In addition, DPR recommends that CACs first consult with DPR before attempting to use section 6444 to address "generalized effects" because the matter may actually be of statewide significance.

Chapter 10

Due Process Related to Permits

Overview

Introduction

This chapter contains an overview of the due process required when actions are taken to refuse, suspend, or revoke a permit. Whether the action is based on an evaluation of the permit conditions (FAC section 14006.5) or final determinations finding violations of permit conditions, regulation or code, or a lawful order of the CAC (FAC section 14008), the procedures found in FAC section 11512.5 assure due process.

FAC sections 11512.5 14006.5, and 14008 authorize the CAC to refuse, suspend, or revoke a permit (see Chapter 9).

What is due process?

Due process requires that any hearing process affecting an individual's interests be fundamentally fair. It requires an orderly proceeding adapted to the nature of the case that provides the individual with adequate notice of the proposed action and the opportunity to be heard to defend his/her conduct or position.

References

Food and Agricultural Code sections 11512.5, 12825, 14006.5, and 14008

In this chapter

This chapter contains the following topics:

Topic	See Section…
Due Process: When FAC section 11512.5 Procedures Apply	10.1
Due Process Procedures Under FAC section 11512.5	10.2

Section 10.1

Due Process: When FAC section 11512.5 Procedures Apply

Due process -- refuse, revoke, suspend

The due process provisions of FAC section 11512.5 apply whenever the CAC refuses, revokes, or suspends a permit. Suspension and revocation situations are easy to identify. What constitutes a refusal under this provision requires more clarification.

"Refuse" is the same as "deny"

The Merriam-Webster Collegiate® Dictionary, Tenth Edition, defines "deny" as "to refuse to grant." To "deny" a permit is the same as to "refuse" to issue a permit.

Due process for refusals

The CAC must provide "notice and an opportunity to be heard" or "due process" when refusing a permit, unless the applicant or activity does not meet an objectively determined minimum requirement. Examples include: product not labeled, no certified applicator, incomplete application.

Opportunity to correct permit application

If the CAC has objectively determined from the person's application or other information that the person or activity does not meet a requirement <u>necessary to qualify for the permit</u> or if the person has an incomplete application, then the CAC may refuse that person; however, due process requires the applicant be given notice of the application's defect and provided with an opportunity to correct the error or omission, if possible.

Refusal based on evaluation or violations

Refusal based upon an incomplete application or failure to meet a minimum qualification for a permit may not require the same procedures to satisfy the due process requirement as actions based on an evaluation made pursuant to FAC section 14006.5 or prior violations of the applicant pursuant to FAC section 14008. Refusals based on these sections should follow the review and appeal process outlined in FAC section 11512.5. The permit applicant should be told the reasons for the refusal and be informed of his/her review and appeal rights pursuant to this section.

Continued on next page

Sample form

A sample form, *Permit Refusal Based on Evaluation of the Application/ Notice of Intent*, can be used as an abbreviated NOPA to inform the applicant of the general grounds for the CAC's decision and his/her rights provided by the law and to record the refusal for the CAC's files.

The sample form is on the following page. (Changes made to the previous version of the sample form have not been highlighted.)

(THIS FORM MAY BE COPIED UNDER COUNTY LETTERHEAD)

PERMIT REFUSAL BASED ON EVALUATION OF THE APPLICATION / NOTICE OF INTENT

Applicant_____Permit number_____Date_____

Pesticide requested_____Commodity/site_____

Pest_____Site ID, Location_____

NOTICE OF GROUNDS FOR REFUSAL
(Food and Agricultural Code sections 12825, 14006.5, and 14008)

() There are serious, uncontrollable adverse environmental impacts that cannot be mitigated
() The proposed use is of less value than the benefits obtained
() There is a feasible alternative available that is less damaging to the environment
() There are sensitive sites too near to the proposed application site
() There is a likelihood of problems related to heterogeneous plantings of crops
() There is a likelihood of pest resurgence or secondary pest problems
() There are unsuitable meteorological conditions for use
() The timing is unsuitable in relation to bee activity
() Unpaid fine
() Violations documented by final enforcement orders
() Other_____
() Additional Comments_____

NOTICE OF OPPORTUNITY FOR REVIEW AND APPEAL OF ACTION
(Food and Agricultural Code section 11512.5)

If you do not agree with this action, you may make a written request for a hearing for reconsideration of this decision within 20 days. Your request should include any information you believe is relevant to the issue. You will receive at least ten days advance notice of the time and date set for the hearing. If you do not request a hearing, this action will be final.

You will receive a written decision of the county agricultural commissioner after the hearing. If you requested and appeared at the hearing, you may appeal the decision to the Director of the Department of Pesticide Regulation within ten days. Thereafter, you may request court review of the Director's decision.

Signed_____ Date_____

Section 10.2

Due Process Procedures Under FAC section 11512.5

Due process specifics for refusal, suspension, or revocation

The CAC must provide "notice and an opportunity to be heard" or "due process" when refusing, suspending, or revoking a permit. The following procedure is required to ensure due process under FAC section 11512.5:

If	Then,
the person's permit is to be refused, suspended, or revoked based on an evaluation of the permit or past finalized enforcement actions,	that person shall be given written notice of the proposed action (NOPA), including the basis for the action, and notice of the right to request a hearing before the CAC within 20 days of receiving the notice. In the case of a suspension (immediate cancellation), the CAC shall inform the permittee, in writing, of the suspension as soon as practical, specifying the reasons for the (immediate) suspension.
a hearing is requested,	the notice of the time and place of the hearing shall be given at least ten days prior to the hearing date. The person will be given the opportunity to present any evidence or argument on his/her own behalf.
a hearing is not requested,	the CAC may take the proposed action without a hearing.
the person's permit is refused, suspended, or revoked, and he/she had requested and appeared at the hearing,	he/she may appeal the CAC's decision to the Director within ten days of mailing or personal service of the CAC's decision.

Chapter 11

Interested Party Permit Review Request

Introduction

Any interested person may ask the CAC to review his/her decision in issuing, refusing, revoking, suspending, or conditioning a permit to use or possess a restricted material. The CAC may affirm, modify, or reverse the permit decision.

FAC §14009 -- CAC's review of a permit action

When it is **not** the permittee requesting the review of a permit action, the review should be conducted pursuant to the provisions of FAC section 14009. It is typically a person who lives within the vicinity of the permit site who requests a review, but the definition of "interested" party includes a much broader category of individuals.

Review request requirements

Each request for review must be submitted to the CAC in writing and include the following:

1. Location and kind of sensitive sites affected;
2. Location of the property being treated;
3. Name of the restricted material (pesticide);
4. Name and address of the operator whose property is being treated; and
5. Any other information the person filing the request for review or the CAC determines to be relevant.

Crafting decisions

The CAC's written decision in response to the review request should include the following:

- Discussion of how the permit use is consistent with the applicable pesticide label restrictions and regulations;
- Discussion of specifically how the permit decision takes into consideration local conditions and the factors listed in FAC section 14006.5;
- Specific responses to any issues raised by the party requesting review; and
- Description of any actions taken or information considered by the CAC to assist in making the review decision.

Continued on next page

Time frames

The CAC will review the request and provide a written response within ten days of the request or as soon as is practicable. The CAC shall conduct each review in an expeditious manner so that needed pest control measures are not adversely affected.

Appeal to the Director

After the CAC has reviewed the permit and provided a written decision, a person directly affected[1] by the CAC's decision may appeal to the Director for review.

Limited issues on appeal

In an appeal of the CAC's decision to the Director, the issues are limited to whether the:

- Proposed permit's use is consistent with the applicable pesticide label restrictions and applicable regulations;
- CAC properly considered the provisions of FAC section 14006.5;
- CAC abused his/her discretion in issuing, refusing, revoking, or conditioning the permit.

[1] The only definition of "directly affected" is in 3 CCR section 6443(h). While this section is limited to the use of phenoxy herbicides on timberland, DPR will initially apply this standard to all appeals. If the appellant does not meet this standard, he/she should state the basis for being directly affected. If the CAC revokes, suspends, or modifies a permit as a result of his/her review, the permittee can appeal under the provisions of FAC section 11512.5.

Chapter 12

Appeals to the Director for Additional Review

Overview

Introduction

This chapter contains an overview and the sections that describe the Director's legal authorities when reviewing an appeal. Section 12.1 deals with requests for review (appeals) by the permittee, while section 12.2 deals with requests for review (appeals) by other parties.

Two review authorities

An appeal to the Director to review a permit decision by a CAC must be taken under one of two legal authorities. The authorities have slightly differing requirements which the appellant and Director must follow.

The authorities outlining the two processes are:

1. FAC section 11512.5 and
2. FAC section 14009 implemented by 3 CCR section 6442 - Permit Review (by the Director)

In this chapter

This chapter contains the following topics:

Topic	See Section…
Appeal to the Director by Permittees--FAC Section 11512.5	12.1
Appeal to the Director by Others--FAC Section 14009(b) Implemented by 3 CCR Section 6442	12.2

Section 12.1

Appeal to the Director by Permittees--FAC Section 11512.5

FAC §11512.5 - Appealing the decision to the Director

An appeal pursuant to FAC section 11512.5 shall be in writing and signed by the appellant or his/her authorized agent and state the grounds for the appeal. The CAC's decision shall remain in place pending the outcome of the appeal to the Director.

Time frames

- Within ten days of filing the appeal, any party may apply to the Director to present new evidence. The Director may allow additional evidence at his/her discretion.
- Thereafter, each party has ten days to rebut the evidence presented and present oral or written arguments.
- If an oral argument is granted, the Director will give the parties at least ten days notice of the time and place set for the argument. The Director will specify the date by which both parties must submit their written argument.

Director's limits

- The Director shall decide the appeal upon the evidence received at the hearing before the CAC, the argument, and any new or additional evidence the Director may have admitted.
- Upon appeal, the Director may affirm, modify, or reverse the CAC's decision.

Director's decision

A copy of the Director's decision will be given to each party.

Judicial review

If the appellant disagrees with the Director's decision, they can seek court review of the decision within 30 days of the date of the decision. Judicial review of any of the Director's decisions pursuant to this section shall be pursuant to Code of Civil Procedure section 1094.5.

Section 12.2

Appeal to the Director by Others--FAC Section 14009(b) Implemented by 3 CCR Section 6442

FAC §14009 - DPR Director's review

Pursuant to FAC section 14009, a person directly affected by the CAC's decision may appeal to the Director to review the CAC's action in issuing, refusing, revoking, suspending, or conditioning a permit to use or possess a restricted material. The Director may affirm, modify, or reverse the CAC's decision.

Time frames

The Director shall act on the appeal within ten days of receipt or as soon thereafter as is practicable. The Director may stay the operation of a permit until his/her review is complete.

Documents needed for Director's review

The law does not specify what the appealing party must provide to the Director in connection with an appeal or even require that they provide notice of the appeal to the CAC. Therefore, the Director will notify the CAC that an appeal has been received. The CAC should be prepared to provide the Director with the following:

- A copy of the original request for review by the CAC, including any supporting documents provided by the requestor or subsequent correspondence;
- The permit, including all permit conditions, notices of intent, and supporting documentation;
- Any information reviewed by the CAC in connection with his/her review of the permit; and
- The CAC's written decision upholding or modifying the permit.

FAC §14009 - Limited issues on appeal

In an appeal of the CAC's decision to the Director, the issues are limited to whether the:

- Proposed permit's use is consistent with applicable pesticide labeling restrictions and applicable regulations;
- CAC properly considered the provisions of FAC section 14006.5;
- CAC abused his/her discretion in issuing, refusing, revoking, or conditioning the permit.

Continued on next page

Appeal to the Director by Others--FAC Section 14009(b) Implemented by 3 CCR Section 6442, Continued

Public review not required

Unless requested by the affected person, a public review is not required.

Public review is requested

Any interested party may request a public review of the information provided to the Director in connection with the appeal.

- If a public review is requested, the Director shall notify directly, the affected person at least 72 hours in advance of the location and time of the public review.
- Before acting on an appeal in a specified location open to the public, the Director shall review the information provided to him/her as specified in this section, if requested to do so in writing by any interested person.
- The Director may request additional testimony or other evidence specified in this section at this public review from any interested person.

Judicial review

If the appellant disagrees with the Director's decision, they can seek court review of the decision within 30 days of the date of the decision. Judicial review of any of the Director's decisions pursuant to this section shall be pursuant to Code of Civil Procedure section 1094.5, and shall be limited to whether the proposed permit use is consistent with the applicable pesticide label restrictions and regulations, and whether the Director abused his/her discretion.

3 CCR §6442. (Permit Review) - clarifies Director's review under FAC §14009

- The CAC's decision in issuing, conditioning, refusing, revoking, or suspending a restricted materials permit will be reversed by the Director only for a clear abuse of discretion by the CAC. The burden of establishing an abuse of discretion is on the person requesting the review.
- The Director's review is limited to the particular permit involved.

Continued on next page

3 CCR §6442. (Permit Review) - clarifies Director's review under FAC §14009 (continued)

- The person requesting a review may request the Director to stay the operation of the permit for a limited time, or, until the matter is finally decided. The Director determines whether the stay will be granted or refused as soon as practicable based upon:
  1. The reasons stated for the stay in the request for review and supporting documents; any counter documents; or arguments timely submitted to the Director by the CAC or the permittee; **and**
  2. The Director's own preliminary analysis of whether a stay is necessary to avoid a significant health hazard or significant crop, environmental, or property damage.

Appendix A

Glossary

Introduction

This glossary contains acronyms and definitions used in California's Restricted Materials Permit Program.

Topic	See Section …
Acronyms	A.1
Definitions	A.2

Section A.1

Acronyms

Introduction This section contains acronyms used by the Department of Pesticide Regulation and county agricultural commissioners.

3 CCR	Title 3, California Code of Regulations pertaining to Food and Agriculture
40 CFR	Title 40, Code of Federal Regulations, Protection of Environment
ACP	Agricultural Civil Penalty
CAC	County Agricultural Commissioner
CCR	California Code of Regulations
CEQA	California Environmental Quality Act
CFR	Code of Federal Regulations
DPR	Department of Pesticide Regulation
EIR	Environmental Impact Report
FAC	Food and Agricultural Code
FIFRA	Federal Insecticide, Fungicide, and Rodenticide Act
GWPA	Ground Water Protection Area
NOI	Notice of Intent
NOPA	Notice of Proposed Action
PAC	Private Applicator Certificate
PCA	Agricultural Pest Control Adviser
PCB	Pest Control Business
PSIS	Pesticide Safety Information Series
QAC	Qualified Applicator Certificate
QAL	Qualified Applicator Licensee
Title 3	Title 3, California Code of Regulations--3 CCR, Food and Agriculture
Title 40	Title 40, Code of Federal Regulations--40 CFR, Protection of Environment
U.S. EPA	United States Environmental Protection Agency

Section A.2

Definitions

Introduction This section defines terms used by the Department of Pesticide Regulation and county agricultural commissioners.

Contiguous: A property whose boundary is not broken by public road(s), rights-of-way, or permanent waterways. Each CAC would identify rights-of-way and permanent waterways in his/her respective county.

Environmental effects: Refers to any damage, either permanent or temporary, to public or private property; or, to the creation of deleterious effects to air or water quality. Examples of environmental effects include: crop damage, loss of use of public or private property, bee kills, livestock poisoning, residues that affect the marketability of a crop, fish or wildlife kills, and contamination of land, water or air.

Environmental Impact Report (EIR): An informational document which is considered by every public agency prior to its approval or disapproval of a project. The purpose of an environmental impact report is to provide public agencies and the public with detailed information about the effect a proposed project is likely to have on the environment; to list ways in which the significant effects of such a project might be minimized; and to indicate alternatives to such a project.

Feasible: Capable of being accomplished in a successful manner, within a reasonable period of time, taking into account economic, environmental, social, and technological factors.

Feasible alternatives: Other chemical or non-chemical procedures which can reasonably accomplish the same pest control function with comparable effectiveness and reliability, taking into account economic, environmental, social, and technological factors and timeliness of control.

Feasible mitigation measure: A condition attached to the approval of an activity which, if implemented, would substantially reduce any adverse impact, taking into account economic, environmental, social, and technological factors and timeliness of control.

Ground Water Protection Area (GWPA): A geographically defined area vulnerable to pesticide contamination by either leaching or runoff.

Continued on next page

Non-agricultural use: Includes the sale or use of pesticides in properly labeled packages or containers which are intended for any of the following:
(a) Home use (includes residential) labels with directions in "per square feet."
(b) Use in structural pest control (no agricultural commodity involved).
(c) Industrial or institutional use.
(d) The control of an animal pest under the written prescription of a veterinarian.
(e) Local districts or other public agencies which have entered into and operate under a cooperative agreement with the Department of Public Health pursuant to 116180 of the Health and Safety Code, provided that any exemption under this subdivision is subject to the approval of the director as being required to carry out the purposes of this division.

Notice of Intent (NOI): Oral or written notification to the commissioner, as specified by the commissioner, prior to the use of a pesticide pursuant to a permit.

Pest control: The use or application of any pesticide. It also means the use of any substance, method, or device to do any of the following:
(a) Control pests.
(b) Prevent, destroy, repel, mitigate, or correct any pest infestation or disorder of plants.
(c) Inhibit, regulate, stimulate, or otherwise alter plant growth by direct application to plants.

Pest control business: A person or business who performs pest control for hire, including, but not limited to, advertising, soliciting, or operating as a pest control business.

Pesticide Safety Information Series (PSIS): A series of leaflets used primarily as a training aid for employees. California regulations require these documents to be part of pesticide handler and field worker training.

Private Applicator Certificate: Issued by the county agricultural commissioner to a person that has taken and passed the *Private Applicator Certificate Examination* with a score of 70 percent or above, or upon renewal, has taken and passed the Examination or has completed the continuing education training requirement.

Restricted material: State term for restricted use pesticide.

Restricted use pesticide: Federal term for restricted material.

Continued on next page

Definitions, Continued

Sensitive site: A location determined by the county agricultural commissioner or Director based upon his/her evaluation, to contain things that could suffer harm or injury from the pesticide in question, such as people, crops where minor amounts of residue can cause harm, honey bees, wildlife, domestic animals, bodies of water, etc.

Site: An area no larger than the property operator's contiguous property and no smaller than one crop location.

Appendix B

CALIFORNIA RESTRICTED MATERIALS REQUIREMENTS

A FEDERAL RESTRICTED USE PESTICIDES

(Included by reference as California Restricted Materials.)
PESTICIDES DISPLAYING THE STATEMENT SHOWN HERE OR A SIMILAR STATEMENT ON THE PRODUCT CONTAINER

RESTRICTED USE PESTICIDE
FOR RETAIL SALE TO AND APPLICATION ONLY BY A CERTIFIED APPLICATOR OR PERSONS UNDER THEIR DIRECT SUPERVISION

PRODUCTS BEARING THE "PHYSICALLY PRESENT" STATEMENT ON THE LABEL ARE REQUIRED TO HAVE A CERTIFIED APPLICATOR PHYSICALLY PRESENT AT THE USE SITE

B CALIFORNIA RESTRICTED MATERIALS

TRADE NAMES ARE INCLUDED IN THE INTEREST OF SIMPLICITY. OTHER PRODUCTS WITH THE SAME COMPOUND AS AN ACTIVE INGREDIENT ARE ALSO SUBJECT TO THE PERMIT REQUIREMENTS. REFER TO TITLE 3, CALIFORNIA CODE OF REGULATIONS SECTION 6400.

ACROLEIN, WHEN LABELED AS AN AQUATIC HERBICIDE
ALDICARB (TEMIK)
ALL DUST (EXCEPT THOSE PRODUCTS CONTAINING ONLY EXEMPT PESTICIDES)**
ALUMINUM PHOSPHIDE (PHOSTOXIN)
[1] ANY PESTICIDE CONTAINING ACTIVE INGREDIENTS LISTED UNDER SECTION 6800(a), WHEN LABELED FOR AGRICULTURAL, OUTDOOR INSTITUTIONAL, OR OUTDOOR INDUSTRIAL USE
ANY PESTICIDE USED PURSUANT TO SECTION 18 OF FIFRA (EMERGENCY EXEMPTION)
4-AMINO PYRIDINE (AVITROL)
AZINPHOS-METYHL (GUTHION)
CALCIUM CYANIDE
CARBARYL (SEVIN)**
CARBOFURAN (FURADAN)
CHLOROPICRIN
3-CHLORO-P-TOLUIDINE HYDROCHLORIDE (STARLICIDE)
DAZOMET, WHEN LABELED FOR PRODUCTION OF AGRICULTURAL PLANT COMMODITIES
DICAMBA (BANVEL) DIGLYCOLAMINE SALT OF 3,6-DICHLORO-O-ANISIC ACID▪
2,4-DICHLOROPHENOXYACETIC ACID (2,4-D)▪
2,4-DICHLOROPHENOXYBUTYRIC ACID (2,4-DB)▪
2,4-DICHLOROPHENOXYPROPIONIC ACID (2,4-DP)▪
1,3-DICHLOROPROPENE (TELONE II)
DISULFOTON (DI-SYSTON)**
ENDOSULFAN (THIODAN)**
ETHOPROP (MOCAP), WHEN LABELED FOR TURF USE
FENAMIPHOS (NEMACUR)
LINDANE**
METAM SODIUM, WHEN LABELED FOR PRODUCTION OF AGRICULTURAL PLANT COMMODITIES
METHAMIDOPHOS (MONITOR)
METHIDATHION (SUPRACIDE)
METHOMYL (LANNATE)**
METHYL BROMIDE
2-METHYL-4-CHLOROPHENOXYACETIC ACID (MCPA)▪
METHYL ISOTHIOCYANATE (MITC), WHEN LABELED FOR PRODUCTION OF AGRICULTURAL PLANT COMMODITIES
MEVINPHOS (PHOSDRIN)
MOLINATE (ORDRAM)
OXYDEMETON-METHYL (METASYSTOX-R)
PARAQUAT (GRAMOXONE)
PARATHION-METHYL
PHORATE (THIMET)
POTASSIUM N-METHYLDITHIOCARBAMATE (METAM-POTASSIUM), WHEN LABELED FOR PRODUCTION OF AGRICULTURAL PLANT COMMODITIES
PROPANIL (3,4-DICHLOROPROPIONANILIDE)
SODIUM CYANIDE
SODIUM FLUOROACETATE (COMPOUND 1080)
STRYCHNINE**
SULFOTEPP
SULFURYL FLUORIDE
THIOBENCARB (BOLERO)
TRIBUFOS (DEF, FOLEX)
TRIBUTYLTIN, WHEN LABELED FOR FOULING ORGANISMS IN AN AQUATIC ENVIRONMENT
ZINC PHOSPHIDE**

APPLICATORS WHO HAVE MET THE CERTIFICATION REQUIREMENTS FOR RESTRICTED MATERIALS PURSUANT TO FOOD AND AGRICULTURAL CODE §14015

CERTIFIED COMMERCIAL APPLICATORS

(PERSONS OTHER THAN PRIVATE APPLICATORS USING RESTRICTED PESTICIDES)

JOURNEYMAN PILOTS
QUALIFIED APPLICATOR LICENSEES
QUALIFIED APPLICATOR CERTIFICATE HOLDERS
STRUCTURAL PEST CONTROL FIELD REPRESENTATIVES
STRUCTURAL PEST CONTROL OPERATORS
VECTOR CONTROL TECHNICIANS

A PESTICIDES ONLY IN "A" ABOVE -- NO PERMIT REQUIRED
B PESTICIDES ONLY IN "B" ABOVE -- PERMIT REQUIRED EXEMPTIONS APPLY

CERTIFIED PRIVATE APPLICATORS

(GROWERS, NURSERYMEN, AND OTHERS USING RESTRICTED PESTICIDES TO PRODUCE AGRICULTURAL COMMODITIES)

HOLDERS OF A VALID PRIVATE APPLICATOR CERTIFICATE

A PESTICIDES ONLY IN "A" ABOVE -- NO PERMIT REQUIRED
B PESTICIDES ONLY IN "B" ABOVE -- PERMIT REQUIRED EXEMPTIONS APPLY

EXCEPTIONS FROM RESTRICTION

**PRODUCTS LABELED ONLY FOR HOME, STRUCTURAL. INDUSTRIAL, INSTITUTIONAL, OR PUBLIC AGENCY VECTOR CONTROL DISTRICTS USES.

- CARBARYL FORMULATED AS A BAIT
- FLY BAIT CONTAINING 1% METHOMYL OR LESS
- USE ON LIVESTOCK OR POULTRY
- DILUTED, READY-TO-USE SOLUTION OF CERTAIN RESTRICTED HERBICIDES
- ONE QUART OR LESS OF A PRODUCT CONTAINING CERTAIN RESTRICTED HERBICIDE IN A LIQUID FORMULATION
- 2,4-D PRODUCTS LABELED ONLY FOR USE AS A PLANT GROWTH REGULATOR
- ONE GALLON OR LESS OF A PRODUCT CONTAINING THE FOLLOWING PERCENTAGES OF RESTRICTED HERBICIDE IN A LIQUID FORMULATION:
  - 15% OR LESS DICAMBA
  - 15% OR LESS MCPA
  - 15% OR LESS OF 2,4-D
  - 15% OR LESS OF 2,4-DB, OR
  - 15% OR LESS OF 2,4-DP
- UP TO 50 POUNDS OF CERTAIN RESTRICTED HERBICIDE (PHENOXY AND DICAMBA) CONTAINING 10% OR LESS OF ACTIVE INGREDIENT PREPARED FOR USE WITHOUT FURTHER DILUTION
- ONE POUND OR LESS OF A PRODUCT CONTAINING CERTAIN RESTRICTED HERBICIDE (PHENOXY AND DICAMBA) IN A DRY FORMULATION

EXCEPTIONS FROM PERMIT REQUIREMENT

[1] PESTICIDES LISTED UNDER 3 CCR SECTION 6800(a) (POTENTIAL TO POLLUTE GROUND WATER):

NO PERMIT REQUIRED FOR CERTIFIED APPLICATORS USING THESE MATERIALS OUTSIDE OF A GROUND WATER PROTECTION AREA.

ATRAZINE BENTAZON (BASAGRAN®) BROMACIL DIURON NORFLURAZON PROMETON SIMAZINE

Appendix C

Department of Pesticide Regulation Recommended Permit Conditions

Introduction

This Appendix contains Department of Pesticide Regulation recommended permit conditions for various restricted material pesticides.

Topics discussed

This Appendix contains discussions on the following topics:

Topic	Section
General Drift Minimization	C.1
1,3-Dichloropropene (1,3-D)	C.2
Carbofuran (Furadan 4F)	C.3
Ground Water Protection Approved Alternative Management Practices	C.4
Metam-Sodium and Metam-Potassium Products	C.5
Methyl Bromide and Sulfuryl Fluoride (ProFume) Fumigants	C.6
Rice Pesticides	C.7
S, S, S-tributyl phosphorotrithioate (DEF, tribufos)	C.8

Section C.1

General Drift Minimization

Introduction The following drift minimization measures are recommended permit conditions for those pesticides that are restricted materials, in addition to the drift minimization measures described on the pesticide label. Applicators are encouraged to utilize these measures for other pesticides whenever possible to minimize environmental contamination from drift.

I. AIRCRAFT

A. Aircraft application equipment used to apply a pesticide spray solution shall be configured as follows:
   1. Functional boom length, measured from outboard nozzle to outboard nozzle, shall not exceed 75% of the overall wing span or rotor length.
   2. Boom pressure shall not exceed the manufacturer's recommended pressure for the nozzles being used.
   3. The flow of liquid from each nozzle shall be controlled by a positive shutoff system.
   4. Nozzle orifices shall be directed backward, neutral to the airstream.
   5. Aircraft shall be equipped with:
      (a) Jet nozzles having an orifice of not less than one-sixteenth of an inch in diameter. Nozzles shall not be equipped with any device or mechanism which would cause a sheet, cone, fan, or similar type dispersion of the discharged material, except helicopters operating at 60 miles per hour or less may add a number 46 (or equivalent) or larger whirlplate;
      (b) Helicopters operating at 60 miles per hour or less may, instead of (a), be equipped with fan nozzles with a fan angle number not larger than 80 degrees and a flow rate not less than one gallon per minute at 40 pounds per square inch pressure (or equivalent); or
      (c) After evaluation, the director may authorize other nozzles for aircraft use.

B. Aerial applications of a pesticide spray solution shall meet the following requirements:
   1. Apply only when there is a positive air flow. Wind speed shall not be more than ten miles per hour at the application site, as measured by an anemometer positioned four feet above the ground.
   2. Discharge shall start after entering the target site; discharge height shall not exceed ten feet above the crop or target; discharge shall be shut off whenever necessary to raise the equipment over obstacles; discharge shall be shut off before exiting the target site.

Continued on next page

General Drift Minimization, Continued

II. GROUND

A. Vehicle-mounted or towed ground equipment, other than handguns, used to make applications shall be equipped with:
   1. Nozzles having an orifice not less than one-sixteenth of an inch in diameter (or equivalent) and operated at a boom pressure not to exceed the manufacturer's recommended pressure for the nozzles being used; or
   2. Low-pressure fan nozzles with a fan angle number not larger than 80 degrees and nozzle orifice not less than 0.2 gallon per minute flow rate (or equivalent) and operated at a boom pressure not to exceed 15 pounds per square inch.

B. Applications of a pesticide spray solution made by vehicle-mounted or towed ground equipment shall meet the following requirements:
   1. Apply only when wind speed is ten miles per hour or less at the application site, as measured by an anemometer positioned four feet above the ground.
   2. Discharge shall start after entering the target site; discharge shall be shut off before exiting the target site.

Section C.2

Recommended Permit Conditions for 1,3-Dichloropropene Pesticides (Fumigant)

Overview

Introduction

These recommended permit conditions apply to the use of pesticides containing the active ingredient (a.i.) *1,3-Dichloropropene* (1,3-D) when applied by both mechanical soil injection and drip application systems. They should be used in addition to the provisions in the *California Food and Agricultural Code* (FAC), *Title 3, California Code of Regulations* (3CCR), and product labeling.

When requirements differ, the most stringent requirements should be followed.

In this document

This document contains the following topics:

Topic	See Subsection…
All Application Methods	C.2.1
Mechanical Soil Injection	C.2.2
Drip Application Systems	C.2.3

Subsection C.2.1

All Application Methods

Annual township limit

The township (36 square-mile area) limit is necessary to minimize the levels of the amount of 1,3-D in the atmosphere and mitigate the potential for chronic exposure. This township limit is based on the percent of a.i. in different 1,3-D products.

The Department of Pesticide Regulation (DPR) is utilizing the guidelines of the *California Management Plan: 1,3-Dichloropropene*. For most townships throughout California, the current allocation limit (cap) is 90,250 pounds per calendar year. However, in townships where need exceeds the cap, use of up to 180,500 pounds per calendar year will be allowed, only to the extent that use since 1995 in that township was under the annual limit of 90,250 pounds.

The unused allotment since 1995 will be in effect a "bank" that can be drawn upon since it would not impact the overall average yearly target use of no more that 90,250 pounds per township. Once the bank of unused allotment has been expended, use in a township must return to the annual cap of 90,250 pounds. This is designed to ensure that the annual average of 90,250 pounds is not exceeded.

When county or state borders divide the township, the adjusted total pounds of 1,3-D allowed per calendar year shall be approximately proportional to the area in each political subdivision.

Prior to each application, the permittee shall consult with Dow or their authorized representative to ensure the proposed use does not exceed the ATP of 1,3-D applied in that township within the month or calendar year.

Prohibited Uses

ALL use of 1,3-D in greenhouses is prohibited.

Continued on next page

All Application Methods, Continued

Notice of Intent (NOI)

- The permittee shall provide a valid recommendation to the county agricultural commissioner (CAC) from a Dow AgroSciences (Dow)-authorized pest control adviser before the NOI is accepted and the application allowed.
- In addition to the information required in 3CCR section 6434, the following information shall be provided on the NOI:
  1. Application depth and type
  2. The total gallons (TG) of the pesticide formulation
  3. The pounds per gallon (lbs./gal) of 1,3-D formulation
  4. The percent by weight of the active ingredient (a.i.), expressed as a decimal (.XX)
  5. The total pounds (TP)
  6. The application factor (AF) appropriate for the proposed application
  7. The adjusted total pounds (ATP) for the proposed application

Buffer zones

- The buffer zone shall be a minimum of 100 feet measured from the perimeter of the application block to any occupied residences, occupied onsite employee housing, schools, convalescent homes, hospitals, or other similar sites identified by the CAC.
- The buffer zone may extend across roads, highways, or similar rights of way or sites approved by the CAC.
- If utilizing the label exemption (100-foot permit condition buffer zone) one year, the label requires utilizing a 300-foot buffer zone for the next three years. The 100-foot buffer zone shall not be used again until a minimum of **three (3) complete 365 day periods** (1,095 days) have elapsed.

Restricted Entry Interval (REI) for All Application Methods

Entry by any person (including early entry that would otherwise be permitted by the Worker Protection Standard), other than a properly trained and equipped handler who is performing a handling task permitted on the label, is prohibited from the start of the application until seven (7) days after the application.

Continued on next page

How a Request to Use 1,3-D is Processed

The management of chronic exposure through township caps will be a condition of registration. Dow will be responsible for tracking, reporting, and ensuring township limits are done. Dow will be working in conjunction with the California Data Management Systems (CDMS) to oversee 1,3-D use throughout the State.

1. A Dow-authorized pest control adviser electronically submits a recommendation for 1,3-D use to CDMS for approval.
2. CDMS electronically checks the recommendation for accuracy against the product label and DPR-recommended permit conditions.
3. CDMS validates the adjusted pounds of 1,3-D requested, taking into consideration all application factors described by the permit. If the amount requested is available, the recommendation is accepted and a notice of intent can be filed with the CAC.
4. The request is checked for available pounds within the township allotment. CDMS will adjust its system to allow the available pounds of 1,3-D per township to increase to two times the current cap (from 90,250 pounds to 180,500 pounds). **This allocation of pounds of 1,3-D above the existing cap will continue until unused pounds relative to the cap from 1995 forward are no longer available.**
5. When use in any township exceeds the current cap of 90,250 pounds, both DPR and the CAC will receive an informal notification from Dow.
6. For any township that reaches “1.5 times the current cap” of 90,250 pounds, CDMS records will be compared to county records as a quality assurance step.
7. If there is not enough 1,3-D available, a note is displayed, identifying available pounds of 1,3-D and allowing a modified request for available material.

Subsection C.2.2

Mechanical Soil Injection

Mechanical soil injection method

Users shall comply with the following conditions/requirements when applying 1,3-D by mechanical soil injection.

Determining the Application Factor when applying by mechanical soil injection

The application factor (AF) is a predetermined numerical value based on the month, depth of injection, and geographic location of the specific application. The AF values are used in the formula to determine the adjusted total pounds (ATP) used during the application. Use Table 1 below to determine the AF.

Table 1. Determining the application factor (AF)

IF applying the fumigant…	**AND** applied in the month(s) of…	**AND** at depths of…	**THEN,** use the AF of…
Within the San Joaquin Air Basin[1]→	January or December→	Less than 18 inches→	(Prohibited)
Within the San Joaquin Air Basin→	January or December→	18 inches or deeper→	1.9
Outside the San Joaquin Air Basin→	January or December→	Less than 18 inches→	2.3
Outside the San Joaquin Air Basin→	January or December→	18 inches or deeper→	1.2
Within or Outside the San Joaquin Air Basin→	February through November→	Less than 18 inches→	1.9
Within or Outside the San Joaquin Air Basin→	February through November→	18 inches or deeper→	1.0

Continued on next page

[1]The San Joaquin Air Basin consists of Fresno, Kern, Kings, Madera, Merced, San Joaquin, Stanislaus, and Tulare Counties.

Application Rates – Maximum Gallons Per Acre (M gal/A) When Applying By Mechanical Soil Injection

To determine the maximum number of gallons per acre of pesticide formulation (M gal/A):

The gal/A = lbs./A divided by lbs./gal
Divide lbs./A (332) by lbs./gal

- Convert percentage of 1,3-D to a decimal (divide XX% by 100 = .XX);
- To find lbs./gal, multiply lbs./gal x .XX = lbs./gal
- **With or without a tarpaulin**, divide 332 by lbs./gal = gal/A

Because percentages of a.i. differ in various 1,3-D products, the procedures below describe a method to ensure that the township limit is not exceeded. Additionally, this procedure takes into account percentages of 1,3-D active ingredient (a.i.) within different formulated products, allowing more gallons per acre (gal/A) when the product has a lower percentage of 1,3-D or less gal/A if the product has a higher percentage of 1,3-D. The formula follows:

1. The gal/A of pesticide formulation shall be based on the number of pounds per acre (lbs./A) of 1,3-D a.i.
   a) **With or without a tarpaulin**, 332 lbs./A a.i. shall be the maximum allowable amount of 1,3-D (332 lbs./A a.i.).
   b) See pesticide labeling for detailed rate recommendations and rate calculation instructions.

2. Use the following information to calculate the gal/A allowed for each application:
   a) The pounds per gallon (lbs./gal) for the pesticide formulation
   b) The percentage by weight of 1,3-D (XX%) in the pesticide formulation, expressed as a decimal (.XX)
   c) The pounds of 1,3-D per gallon (1,3-D/gal) for the pesticide formulation
   d) The lbs./A for the application (332)

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Maximum Application Rates when Applying By Mechanical Soil Injection

Use Table 2 below to determine the maximum application rate with or without a tarpaulin. The pesticide product label states that Telone™ II, Telone™ C17, and Telone™ C35 shall be applied by mechanical soil injection only.
NOTE: See product's label for rate ranges. There are presently two variations of Telone™ II in the channels of trade--94% a.i. and 97.5% a.i. Do not exceed the maximum rate described by permit conditions.

Table 2. How to determine the maximum application rate with or without a tarpaulin

Calculations	**Telone™ II**	**Telone™ II**	**Telone™ C17**	**Telone™ C35**
(1) Weight/gallon[2]	10.1 lbs.	10.1 lbs.	10.6 lbs.	11.2 lbs.
(2) % 1,3-D/gallon[2]	**94%**	**97.5%**	78.3%	61.1%
(3) Amt. 1,3-D/gallon[3] (3) = (1) x (2) ÷100	9.49 lbs.	9.85 lbs.	8.29 lbs.	6.84 lbs.
Maximum Application Rates With or Without a Tarpaulin				
(4) Max. lbs. a.i./Acre	332 lbs. a.i./A	332 lbs. a.i./A	332 lbs. a.i./A	332 lbs. a.i./A
(5) Max. gal/Acre (5) = (4) ÷ (3)	34.98 gal/A	33.70 gal/A	40.05 gal/A	48.54 gal/A

Continued on next page

[2] Information for steps 1 and 2 can be found on the product label.
[3] Information for step 3 may or may not be on the product label, but can be calculated from steps 1 and 2.
Maximum lbs. a.i./Acre in step 4 has been predetermined by the Department of Pesticide Regulation.
Maximum gal/A in step 5 must be calculated by the applicator.

Calculating the ATP of 1,3-D When Applying By Mechanical Soil Injection

The adjusted total pounds (ATP) for each application shall be calculated based on the following:

1. The total gallons (TG) of the pesticide formulation
2. The lbs./gal for the pesticide formulation
3. The percent by weight (XX%) of 1,3-D in the pesticide formulation, expressed as a decimal (.XX)
4. The total pounds (TP) of 1,3-D
5. The application factor (AF) as determined from Table 1.

The ATP for each application shall be calculated using the following formula:

TG x lbs./gal x (.XX) x AF.

- Convert the 1,3-D percentage by weight (XX%) to a decimal, divide XX% by 100 = .XX
- To find the TP, multiply, TG x lbs./gal x (.XX) = TP
- To find the ATP, multiply, TP x AF = ATP

Subsection C.2.3

Drip Application Systems

Drip Application Method

Users shall comply with the following conditions/requirements when applying 1,3-D through drip application systems. This section applies to InLine™ and Telone™ EC.

Application Timing and Corresponding Application Factor

Drip irrigation applications on soil surface or buried drip application shall use an application factor (AF) of 1.16, regardless of depth.

Application Time and Area

- Generally, applications are allowed statewide during the entire year. However, applications shall not occur in the San Joaquin Air Basin during January and December of each calendar year.

Calculating the ATP of 1,3-D When Applying By Drip Application Systems

The adjusted total pounds (ATP) for each application shall be calculated based on the following:

1. The total gallons (TG) of the pesticide formulation
2. The pounds per gallon (lbs./gal) for the pesticide formulation
3. The percent by weight (XX%) of 1,3-D in the pesticide formulation, expressed as a decimal (.XX)
4. The total pounds (TP) of 1,3-D
5. The application factor (AF) (1.16 AF)

The ATP for each application shall be calculated using the following formula:

TG x lbs./gal x (.XX) x 1.16 AF

- Convert 1,3-D percentage by weight (XX%) to a decimal, divide XX% by 100 = .XX
- To find the TP, multiply, TG x lbs./gal x (.XX) = TP
- To find the ATP, multiply, TP x 1.16 AF = ATP

Section C.3

Suggested Permit Conditions for Carbofuran (Furadan 4F)

"Special conditions"

We have included these additional suggested conditions for your consideration. They need not be generally applied to all sites. They are to be employed only when the county agricultural commissioner (CAC) determines that additional mitigation is necessary due to special circumstances. They are as follows:

1. Provide an alternate source of moisture in cases where the surrounding area is dry. This may be accomplished by irrigating blocks that are not being treated.
2. Do not make applications on nights when the full or nearly full moon is likely to cause birds to be more active.
3. Eliminate leaf litter, trash, and weeds in the vineyard.
4. Remove weeds from under emitters. Disk and throw earth on the berms.
5. Use frightening devices to scare birds from the vineyard until flushing is complete.
6. Delay applications until birds leave the area for the winter.
7. Use below ground emitters.
8. Look for and eliminate puddles after application and irrigation in soils where puddling is known to occur.
9. The property operator will survey the entire treated area for dead birds within 24 hours of the completion of the application and flushing. Carcasses will be gathered and refrigerated; contact the Department of Fish and Game (DFG) or CAC for disposal instructions.

DFG may want to analyze carcasses, whether bird or animal, found in or around fields treated with Furadan and has requested permittees submit the carcasses directly to DFG personnel or to the CAC, as instructed.

The Department of Pesticide Regulation has reviewed these special conditions and feels that they provide mitigation measures for problematic situations that had not been previously identified.

Section C.4

Ground Water Protection Approved Alternative Management Practices

Introduction

Pursuant to 3 CCR section 6487.4(h)(1), DPR approved the following alternative management practices.

Restriction

Section 6487.4 prohibits the use of restricted materials listed in 3 CCR section 6400(d) in a ground water protection area unless one of several specified management practices is designated on the permit and put in place by the permittee. In addition to those practices listed in the regulations, the following have been approved by DPR.

Alternative approved practices

When using a restricted material listed in section 6400(d):

- Band applications to **citrus** trees may be extended to the drip line of the tree, even if the band width exceeds the 33 percent of the distance between the tree rows currently allowed.
- Soil in a **citrus** grove does not need to be disturbed prior to application from the drip line of the tree to the row of the same tree, even if that distance exceeds 33 percent of the distance between tree rows.
- The pesticide does not need to be incorporated in **citrus** from the drip line of the tree to the row of the same tree, even if that distance exceeds 33 percent of the distance between tree rows.
- The pesticide may be applied to the tops and outer sides of canal banks and rights-of-way provided that runoff moves off the treated area as overland flow onto adjacent land, at least equal in area to the treated area, where it infiltrates into the soil with no chance of flow into specified structures.
- The pesticide may be applied where irrigation and rainfall runoff from the treated site is stored on the treated site in an excavated retention area with a percolation rate of greater than 0.2 inches per hour if the runoff is completely recycled every 24 hours from the retention area onto the treated site or neighboring land under certain circumstances.

Section C.5

Recommended Permit Conditions for Applications of Metam-Sodium and Metam-Potassium Products

Overview

Introduction

This document provides the recommended permit conditions for applications of metam-sodium and metam-potassium products.

Notes

- The county agricultural commissioner (CAC) may increase the buffer zone based upon their site evaluation. However, the buffer zone shall not be decreased near sensitive sites.
- The Department of Pesticide Regulation will address drip applications; granular formulations of methyl isothiocyanate (MITC)-generating products; and metam-sodium and metam-potassium training at a later date.
- *Italicized* text indicates the final determinations are pending an ongoing evaluation.
- If the air temperature is expected to exceed 100ºF, DPR recommends the following procedures to CACs:
  1. Conduct a preapplication site evaluation prior to the metam-sodium application.
  2. Preapplication site evaluations should occur as close to the intended date of application as possible. Contact applicators to determine the exact application time to facilitate preapplication site inspections.
  3. Based on resources, CACs should give priority to sensitive areas first, followed by other remaining sites, when possible.
  4. The preapplication site evaluation shall ensure that the site has an irrigation system readily available with the capability to cover the entire application site. The acres applied per day by shank injection near sensitive areas should not exceed the capacity of the available water delivery system to apply a minimum of ¼-inch per hour of water concurrently to the entire surface applied on that day.
  5. The CAC should take and record soil moisture readings and soil temperature readings to three inches.

Continued on next page

Attachments

The information is outlined in topic sections as follows:

Topic	See Subsection…
All Application Blocks	C.5.1
Specific Applications Blocks Near Sensitive Sites	C.5.2

Subsection C.5.1

All Application Blocks

Application blocks

The permit conditions in Subsection C.5.1 apply to all application blocks. See Subsection C.5.2, Specific Application Blocks, for specific application information.

Scope

The CAC specifies the applicable conditions, based on an evaluation of the proposed use of metam. Implementation of the conditions "near" sensitive sites beyond the buffer zone may be applied, based upon the CAC's determination of the level of sensitivity of the particular site in question.

When metam is applied by a licensed pest control business (PCB), the permittee shall provide a copy of the permit conditions to the PCB prior to the application. The PCB shall comply with all application requirements.

The permittee shall be responsible for ensuring compliance with permit conditions specified by the CAC.

Users shall comply with the provisions of the Food and Agricultural Code and Title 3 of the California Code of Regulations, the product label including the Technical Information Bulletin (TIB), and permit conditions. **Where requirements differ, users shall always follow the more restrictive conditions.**

All applications

- Climatic conditions, including the absence of an "inversion," shall be suitable for commencement and continuation of each application.
- Whenever irrigation equipment is required, the equipment shall be in place prior to the commencement of the application.
- Whenever irrigation equipment is required and mitigation of off-site movement is necessary, a minimum of ½-inch of water shall be applied, started immediately and completed within four hours.
- Water delivery system capacity shall meet or exceed the specifications of the TIB, product label, and permit conditions.

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Definitions

Application block: means a field or portion of a field treated in a 24-hour period that is typically identified by visible indicators, maps, or other means.
Applicator: the person or firm that physically makes the application. Includes growers and pest control businesses.
Irrigating: means applying additional water to the application block. (Previously referred to as **water-sealing, water-capping, or water-layering**.)
Monitoring: shall consist of a thorough inspection of the entire treatment area.
Sensitive site: is designated based on an evaluation by the commissioner. The term "sensitive site" as used in these permit conditions is based on highly sensitive populations or populated areas such as schools, churches, and day care centers. As such, all mitigation measures may not be necessary, depending upon the nature of the "sensitive site."

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Subsection C.5.2

Specific Application Blocks Near Sensitive Sites

Application blocks

The conditions in Subsection C.5.2 apply to specific application blocks. Please refer to Subsection C.5.1, All Application Blocks, for additional application information.

Field monitoring near sensitive sites

Field monitoring shall be conducted on an hourly basis during the application and a record of the following application information maintained *when applied within 1,500 feet of an occupied structure*:

- Date of application
- Date and time of the field monitoring
- Wind speed
- Wind direction
- Temperature (air and soil)
- Odor (yes or no)
- Application start and stop time
- Method of application
- Grower's name
- Permit number
- Field location/site number
- Number of acres treated
- Soil moisture (% field capacity)
- In addition to the above requirements, additional requirements for sprinkler applications are shown below:
    - Irrigation set number
    - Irrigation rate (inch/hour)
    - Water pressure (psi)
    - Nozzle size

Continued on next page

Post-application field monitoring near sensitive sites

Post-application field monitoring shall be conducted every two hours for a minimum of 12 hours after the application has ceased. Post-application monitoring includes documentation of the following information *when applied within 1,500 feet of an occupied structure*:

- Date and time of field monitoring
- Observations (changes in weather conditions, etc.)
- Odor (yes or no)
- Irrigation, when required, including the date, time, comments or observations, and the amount of water (inches).

Each field monitoring and post-application monitoring record shall be maintained by the permittee for a minimum of six months or as designated by the CAC.

Shank injection or rotary tiller applications near sensitive sites

- A minimum buffer zone of 500 feet shall be required for all applications that exceed 64 pounds of active ingredients per acre. The CAC may increase the buffer zone based upon their site evaluation. However, the buffer zone shall not be decreased.
- When applying to multiple blocks, subsequent applications shall move away from the sensitive site, unless expressly allowed by permit.
- Operational sprinkler irrigation equipment shall be in place whenever the rate exceeds 64 pounds of active ingredients per acre.

Field equipment shall meet the following minimum specifications:

- Dry disconnect fittings (closed system transfer) shall be installed on all tanks and equipment.
- Each tractor saddle tank shall be equipped with a minimum size #50 mesh screen on both the fill and discharge outlets.
- Main line shutoff or by-pass valves shall be used to stop flow to the distribution manifold.
- All systems shall be equipped with an individual shank monitoring system to detect flow problems in each individual shank.
- Dual check valves shall be installed on each outlet between the manifold and as close as possible to the discharge point.
- All components of the delivery system normally below ground shall be metal and suitable for use as provided on the product label.

Continued on next page

Specific Application Blocks Near Sensitive Sites, Continued

Sprinkler applications near sensitive sites

- A minimum buffer zone of 500 feet from the sensitive site shall be required. The CAC may increase the buffer zone based upon their site evaluation. However, the buffer zone shall not be decreased.
- When applying to multiple blocks, application blocks shall move away from the sensitive site, unless expressly allowed by permit.
- The product shall be applied evenly over a minimum of 4 hours and in a minimum of .80 inch of water.
- After the application is completed, a minimum of ½-inch of water shall be applied, started immediately and completed within four hours.

The Busan 1180 label prohibits all sprinkler applications.

Flood application near sensitive sites

Floodwater shall be available during the post application-monitoring period in an amount sufficient to provide at least one inch of water over the application block.

Section C.6

Recommended Permit Conditions for Fumigants Methyl Bromide and Sulfuryl Fluoride (ProFume)

Introduction

This document provides the recommended permit conditions for methyl bromide and sulfuryl fluoride (ProFume) fumigations.

Attachments

The information is outlined in topic sections as follows:

Topic	See Subsection…
Commodity Fumigation	C.6.1
Field Fumigation	C.6.2
Soil Fumigation Within A Greenhouse	C.6.3
Tarped Potting Soil Fumigation	C.6.4

Subsection C.6.1

Recommended Permit Conditions for Methyl Bromide and Sulfuryl Fluoride (ProFume) Commodity Fumigation

Introduction

This document describes the recommended permit conditions for commodity fumigations at facilities. The permit conditions are designed to prevent the risk of acute exposures from the off-site movement of the fumigant to persons living near fumigation facilities. The following topics are included:

- Work site plan;
- Recommended permit conditions;
- Final permit conditions.

Permits for commodity fumigations are to be issued using the Reference Manual for Methyl Bromide and Sulfuryl Fluoride Commodity Fumigations dated 1/1/06, which is hereby incorporated by reference. Most conditions apply to both fumigants. However, be aware that some apply to only one fumigant or the other.

DPR web site availability

The Recommended Permit Conditions and Work Site Plan are available at: http://www.cdpr.ca.gov/docs/enfcmpli/penfltrs/penf2001/2001atch/attch48a.pdf

The Final Permit Conditions are available at: http://www.cdpr.ca.gov/docs/enfcmpli/penfltrs/penf2001/2001atch/attch48b.pdf

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Recommended Permit Conditions for Methyl Bromide and Sulfuryl Fluoride (ProFume) Commodity Fumigation, Continued

Permit procedures

Permit issuance: Title 3, California Code of Regulations section 6420 allows non-agricultural use permits to be issued to the facility operator, the pest control business, or both parties. It is the position of DPR that the option of who is required to obtain the permit rests with the CAC. It is DPR's determination that when there is a fumigation of a commodity during storage or processing (industrial use) and the application is performed by a pest control business, both the facility operator and the pest control business have different duties with respect to the permit conditions. To be held responsible for their respective duties, both must be issued written permit conditions through the permitting process. Issue the primary permit to the facility operator.

If the facility does not have a certified applicator (qualified applicator certificate) on staff or chooses to hire a licensed pest control business to make the application, condition the permit to require all applications be conducted by a licensed agricultural pest control business. Require the pest control business to obtain a separate permit. As an alternative, the CAC may require that the business be specifically named in the facility permit and that a copy of the permit conditions be provided to that business.

Licensing issues: DPR has been working with the Structural Pest Control Board in an effort to clarify the status of commodity fumigations under the Branch 1 structural pest control license. Until provisions that ensure adequate site specific mitigation are developed, condition facility permits to require pest control businesses to work only under an agricultural pest control business license, and follow the recommended permit conditions.

Documentation

Three separate documents deal with issuing permits for methyl bromide and sulfuryl fluoride commodity fumigations:

1. First is the Work Site Plan that documents the characteristics and procedures for a specific site.
2. The second document, the Reference Manual, hereby incorporated by reference, contains procedures for evaluating Work Site Plans. Evaluation of individual Work Site Plans may reveal one or more of the Permit Conditions as inappropriate for a specific site. The Reference Manual gives possible alternatives that may be more appropriate.

Continued on next page

Documentation (continued)

3. After evaluating individual Work Site Plans and using the recommended Permit Conditions to develop appropriate permit conditions for a specific site, the permit conditions are recorded on the third document, the Final Permit Conditions. The Final Permit Conditions is the document issued to the permit applicant and details the equipment and procedural requirements that must be followed in order to use methyl bromide or sulfuryl fluoride.

Intent of the permit conditions

Permit conditions are meant to be guidelines for typical fumigations. Because of the wide variety of fumigation types, some of the permit conditions may be inappropriate for certain applications. In such cases, the CAC may issue site specific permit conditions. The site specific permit conditions will consist of the requirements given here and/or alternative conditions based on information in the individual Work Site Plan. Methyl bromide and sulfuryl fluoride users are encouraged to suggest alternatives in the Work Site Plan, which will mitigate exposure. The CAC will evaluate requests for alternative conditions and consult with DPR to determine if the request will mitigate the exposure.

Major concepts

The permit conditions are based on four concepts which methyl bromide and sulfuryl fluoride users should keep in mind: **containment**, **dilution**, **distance,** and **time**.

- First, high concentrations of the fumigants should be contained. This means fumigation equipment and the fumigation structure or enclosure should not leak.
- Second, when the fumigants are not contained, dilute it with fresh air.
- Third, keep as much distance as possible between the fumigants and people.
- Fourth, minimize the time people are exposed to the fumigants. The permit conditions use the interaction of these four concepts to minimize exposure. For example, when one is not achieved, the other three are used to compensate.

Continued on next page

Major concepts (continued)

While mitigation measures based on these concepts can decrease the methyl bromide and sulfuryl fluoride exposure to the desired levels, the best way to decrease exposure is to use as little of the fumigant as possible. Particularly, when better containment is provided, it may be possible to decrease the amount of the fumigants and still achieve efficacy. Users will find that as less methyl bromide and sulfuryl fluoride is used, the permit conditions become less obstructive and alternative conditions are easier to implement.

The permit conditions also require various approved test procedures to be used. The Reference Manual contains information on the equipment and procedures necessary to carry out these tests.

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Recommended Permit Conditions for Methyl Bromide and Sulfuryl Fluoride (ProFume) Commodity Fumigation, Continued

Definitions The following definitions are categorized.

General terms

A: Enclosure	A single fumigated space. *Examples: a single chamber, single silo, single sea/land container, or a single group of bins under one tarpaulin.*
B: Enclosed Area	A gas-confining area surrounded by non-porous walls and a roof.
C: Control Room	A small enclosed room adjoining some fumigation enclosures (e.g., primarily chambers) used exclusively for introducing fumigant into an enclosure and/or monitoring its concentration.
D: Fumiscope	A monitoring instrument which reads the concentration of fumigant in ounces per 1000 cubic feet inside an enclosure.
E: Loss Ratio	The proportion of fumigant per hour which leaks from the enclosure during the treatment period. This ratio is determined by a DPR-approved retention test.
F: Mechanical Ventilation	The use of fans or any mechanical device to ventilate a fumigation enclosure, or an enclosed area where fumigated commodities are stored.
G: Mitigation Measures	Modified work practices or engineering controls to comply with the stated permit conditions or alternative permit conditions.
H: Non-Residential Facility	Facilities where commodities are stored or processed. They do not include any structures where people live.
I: Passive Ventilation	Non-mechanical ventilation (e.g., opening doors and removing tarpaulin cover) of a fumigation enclosure.
J: Secondary Enclosed Area	An **enclosed area** surrounding a fumigation enclosure. This is usually a structure (e.g., warehouse, production facility, etc.) that houses the fumigation enclosure. This does not include mesh screen or other porous barriers.
K: Work Site	A location where one or more enclosures are fumigated. *Example: several chambers or sea/land containers at one address.*

Continued on next page

Recommended Permit Conditions for Methyl Bromide and Sulfuryl Fluoride (ProFume) Commodity Fumigation, Continued

Retention categories, Aeration categories

L: Pressure Tested	Either a vacuum chamber or an enclosure which has been pressure tested following the procedures stated in the U.S. Department of Agriculture Plant Protection and Quarantine Treatment Manual.
M: Retention Tested	An enclosure that has been measured for loss of fumigant over time according to a DPR-approved procedure.
N: Untested	An enclosure that has not been pressure or retention tested.
O: Standard Height Exhaust Stack	An exhaust stack that is at least 10 feet above the enclosure's highest point, and at least 10 feet above any major obstruction within 200 feet of the stack, and at least as tall as the appropriate value in Table 1. *Examples of major obstructions: houses, mature orchards, silos*
P: Exit Velocity	The air speed through the exhaust stack during aeration. The exit velocity is determined by dividing the rated fan capacity (cubic feet per minute) by the stack cross-sectional area (square feet).
Q: Minimum Exhaust Stack	An exhaust stack that does not meet the conditions for a standard height exhaust stack, but is at least 15 feet above the ground and has an exit velocity of at least 600 feet per minute.
R: No Stack	An enclosure whose stack does not meet either the standard height or minimum qualifications, or which does not use a stack for aeration.

Buffer zones

S: Treatment Zone	A buffer zone that is maintained around an enclosure during the fumigation treatment period (exposure or holding period). Only persons supervising and performing fumigation activities are permitted in the treatment zone. All other people, including residents and workers, must be excluded from this zone.
T: Aeration Zone	A buffer zone that is maintained around an enclosure during the first portion of the aeration period (four hours or less, depending on the emission concentration). Only persons supervising and performing fumigation activities are permitted in the aeration zone. All other people, including residents and workers, must be excluded from this zone.

Commodity Fumigation Facility Work Site Plan

This Work Site Plan has five sections:
Section A records general information about the work site.
Section B records compliance with general permit conditions.
Section C is used to determine the size of the buffer zones.
Section D records compliance with other specific conditions.
Section E records information for alternate conditions.

The Work Site Plan must be completed and submitted to the CAC. Restricted Materials Permits must be obtained by both the facility operator and pest control business, if applicable.

A Restricted Materials Permit cannot be issued unless all questions in the appropriate sections are answered correctly. Incorrect information on the Work Site Plan will result in denial of the permit.

Fumigation Site:

Address: _____ City: _____ Zip:

Contact Person: _____ Phone:
(Facility Operator, Grower, QAC, QAL, etc.)

Pest Control Business: _____ Permit Number:

Address: _____ City: _____ Zip:

Contact Person: _____ Phone:
(QAL with the appropriate category)

I VERIFY THE FOLLOWING INFORMATION IS ACCURATE AND TRUE TO THE BEST OF MY KNOWLEDGE.

Signature:_____ Date:_____
(Facility Operator)

Title:_____

Consult with the County Agricultural Commissioner for suggestions on alternative conditions.

B.1: Maximum Application Rate	*(Condition 1)*. Will your application rate be eight pounds per 1000 cubic feet or less? If question B.1 is answered NO, you must complete Section E.	YES	NO	
B.2: Total Fumigant	*(Condition 2)*. Will you be using 1000 pounds or less of sulfuryl fluoride or methyl bromide at the work site during a 24-hour period? If question B.2 is answered NO, you must complete Section E.	YES	NO	
B.3: Other Types of Applications	This permit condition does not apply to sulfuryl fluoride applications.	N/A	N/A	
B.4: Enclosed Areas	*(Condition 4)*. Is the fumigation enclosure outside of other buildings (i.e., not within a secondary enclosed area)?	YES	NO	
B.5: Common Walls	*(Condition 4)*. Is the fumigation enclosure physically separated from all other structures (i.e., the fumigation enclosure does not share a common wall with another building)?	YES	NO	
B.6: Outside Introduction	*(Condition 5)*. Is the fumigant introduced from outside the enclosure?	YES	NO	
B.7: Gas-tight Fumigant Lines	*(Condition 6)*. Are fumigant lines and connections checked for leaks during each fumigation?	YES	NO	

If concentrations within the enclosure are monitored with a Fumiscope or other instrument, are the following precautions taken?

B.8: Test Equipment Seals	*(Condition 7)*. Is the enclosure sealed where instrument sampling lines pass through enclosure walls?	YES	NO	does not apply
B.9: Test Equipment Exhaust	*(Condition 8)*. Is the exhaust from the monitoring instrument vented out of the control room or back into the enclosure?	YES	NO	does not apply

If fumigant is introduced from within an enclosed control room, are the following precautions taken?

B.10: Fumigant Line Purge	*(Condition 9)*. Is nitrogen gas or compressed air used to purge fumigant lines prior to changing cylinders?	YES	NO	does not apply
B.11: Control Room Ventilation	*(Condition 10)*. Is the control room mechanically ventilated when people are present?	YES	NO	does not apply
B.12: Control Room Storage	*(Condition 11)*. Are fumigant cylinders stored outside the control room?	YES	NO	does not apply
B.13: Aeration Initiation	*(Condition 12)*. Is a Self Contained Breathing Apparatus worn when initiating aeration?	YES	NO	
B.14: Minimum Aeration Time	*(Condition 14)*. If the enclosure is aerated with mechanical ventilation, is the aeration period at least four hours?	YES	NO	does not apply
B.15: Minimum Aeration Time	*(Condition 14)*. If the enclosure is aerated passively, is the aeration period at least 12 hours?	YES	NO	does not apply
B.16: Testing Aeration Completeness	*(Condition 15)*. Is the air concentration checked according to approved procedures before moving the commodity from the enclosure?	YES	NO	does not apply

If the treated commodity is stored in an enclosed area, are the following precautions taken?

B.17: Storage Area Testing	*(Condition 16).* Is the air concentration within the enclosed area checked according to DPR approved procedures before people enter?	YES	NO	does not apply
B.18: Storage Area Work Schedule	*(Condition 16).* Do workers spend less than one hour in a 24-hour period inside the enclosed storage area?	YES	NO	does not apply
B.19: Document Requirements	*(Condition 18).* Are all test results kept for 2 years?	YES	NO	does not apply

Alternate Conditions - Describe alternatives if any of the questions in Section B were answered NO.

The information in this section is used by the County Agricultural Commissioner to determine the size of the buffer zones <u>for each enclosure</u> at the work site. Complete this section <u>for each enclosure</u>, unless the answers to all of the questions for all enclosures are the same.

Retention Category	C.1. Is the enclosure a vacuum chamber?	YES	NO	
Determination	C.2. Does the enclosure pass the USDA pressure test?	YES	NO	
	C.3. Has the enclosure been retention tested according to DPR-approved procedures?	YES	NO	
Aeration Category Determination	C.4. Does the enclosure use an exhaust stack for aeration? ***If C.4 is answered NO, skip C.5 – C.11 and go to question C.12.***	YES	NO	

	C.5. What is the exhaust stack's height above ground level? Use lowest stack if more than 1.	_____feet		
	C.6. Is the top of the exhaust stack at least 10 feet above the enclosure's highest point?	YES	NO	
	C.7. Is the top of the exhaust stack at least 10 feet above all major obstructions (building, silo, orchard) within 200 feet of the stack?	YES	NO	
	C.8. What is the rated fan capacity or air flow rate of the exhaust fan for this enclosure (combine all fans if more than one)?	_____cubic feet per minute		
	C.9. What is the stack cross-sectional area for this enclosure (combine all stacks)? Area of circle = 3.14 x radius^2	_____square feet		
	C.10. Divide the value from question C.8 by the value from question C.9. This is the exit velocity.	_____feet per minute		
	C.11. What is the largest amount of fumigant that will be used for the entire work site in a 24-hour period?	_____ pounds		

Fumigation Information	C.12. What is the highest application rate that will be used for this enclosure?	_____pounds per 1000 cubic feet	
	C.13. What is the maximum number of fumigations in a 24-hour period for this enclosure?	_____	
	C.14. What is the fumigated volume for this enclosure?	_____cubic feet	
	C.15. What is the maximum amount of fumigant used in a 24-hour period for this enclosure?	_____pounds	
	C.16. What is the duration of the longest treatment period?	_____ hours	
	C.17. If this enclosure has been retention tested according to a DPR approved test, what is the loss ratio (proportion of fumigant leaked from the enclosure per hour)?	_____	does not apply
Other Enclosures	C.18. Give the name, identification or designation for this enclosure:	_____	
	C.19. List any other enclosures that have the same answers to all of the questions in Section C.	_____ _____	
	C.20. List any other enclosures that may be fumigated or aerated within the same 24-hour period and how many times they may be used.	_____ _____	

Complete this section <u>for each enclosure</u>, unless all of the answers are the same.

D.1: Vertical Stack Exhaust	*(Condition 21).* If one or more stacks are used to aerate, are they vented vertically to the outside air?	YES	NO	does not apply
D.2: Unobstructed Exhaust	*(Condition 21).* If one or more stacks are used to aerate, are the tops of the stacks free of overhead obstructions during aeration?	YES	NO	does not apply
D.3: Daylight Aeration	*(Conditions 13 and 22).* Do you always initiate aeration during daylight hours?	YES	NO	

<u>Alternate Conditions</u> - Describe alternatives if any of the questions in Section D were answered NO. Attach additional pages if necessary.

Complete this section only if alternate conditions need to be evaluated by the Department of Pesticide Regulation. Consult with the County Agricultural Commissioner before filling out this section. This section must be completed for each enclosure for which alternate conditions are being requested.

E.1. Enclosure Identification:

E.2. Description of Enclosure:
(chamber, tarped bins)

E.3. Enclosure Material (plastic tarp, wood):

E.4. Enclosure Dimensions:

E.5. Description of Secondary Enclosed Space (if any):

E.6. Secondary Enclosed Space Dimensions (if any):

E.7. Commodity/Site Fumigated:

E.8. Months Fumigations Conducted (e.g., Jan-Dec):

E.9. Months of Peak Season (e.g., Jan-Dec):

E.10. Number of Fumigations Per Week During Peak Season:

E.11. Aeration Duration (hours or days):

E.12. Treated Commodity Storage Area Description:

E.13. Treated Commodity Storage Area Dimensions:

E.14. Description of Work Activities in Storage Area (if any):

E.15. Identify permit condition(s) for which alternate conditions are being requested:

_____

_____

_____

E.16. Describe suggested alternate conditions. If no specific alternate conditions can be suggested, identify which of the following general mitigation measures are possible:

- Containment (better containment of fumigant within the enclosure)
- Dilution (dilute the released fumigant with fresh air)
- Distance (increase the distance between the fumigant and people)
- Time (decrease the time people are exposed)

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1: Maximum Application Rate

A maximum application rate of 8 pounds per 1000 cubic feet or the rate specified by the label may be used, whichever is less.

2: Total Methyl Bromide

The total amount of methyl bromide per work site must not exceed 1000 pounds in a 24-hour period.

3: Other Types of Applications

No other types of methyl bromide applications (e.g., field, greenhouse, potting soil, structural) can occur at the work site for the preceding 48 hours or the following 24 hours of a commodity application. Other commodity fumigations can be conducted.

4: Enclosed Area and Common Walls

The following types of fumigations are prohibited unless mitigation options are identified in the Work Site Plan:

– those inside an enclosed area with people present

– enclosures which share a common wall with another enclosed area with people present

Examples: A tarpaulin fumigation inside a warehouse is prohibited. Using a chamber which shares a common wall with an office is prohibited.

GENERAL CONDITIONS
Fumigation Equipment and Introduction

5: Outside Introduction

Application from outside the enclosure through a closed system is required. Releasing methyl bromide from inside the enclosure is prohibited unless mitigation options are identified in the Work Site Plan.

6: Gas-tight Fumigant Lines

All fumigant lines must be gas-tight. Fumigant lines, valves, fittings, etc. which are routinely adjusted or changed must be checked for leaks after each adjustment.

Examples: When changing methyl bromide cylinders, the connection between the introduction line and the cylinder must be checked for leaks. The cylinder valve must be checked for leaks after opening.

7: Test Equipment Seals

The enclosure must be sealed where instrument sampling lines pass through enclosure walls.

Example: Fumiscope leads must be placed and the hole at the chamber or enclosure wall sealed prior to the fumigation.

8: Test Equipment Exhaust

Exhaust from sampling equipment must be vented away from people and to outside air or back into the enclosure.

9: Fumigant Line Purge

When introducing methyl bromide from an enclosed control room, applicators must use nitrogen gas or compressed air to purge fumigant lines prior to changing cylinders.

10: Control Room Ventilation

Enclosed control rooms must be mechanically ventilated during fumigation if workers are present.

11: Control Room Storage

Methyl bromide cylinders must not be stored inside enclosed control rooms.

NOTE: The following conditions pertain to aeration of the fumigation enclosure, not aeration of areas where commodities are stored, except when they are the same.

12: Aeration Initiation

Persons who initiate aeration by manually breaking a seal must wear a self-contained breathing apparatus (SCBA). Exception: enclosures for which aeration is initiated remotely, such as chambers.

Examples: breaking seals on tarpaulin fumigations, opening sea/land container doors

13: Aeration During Daylight

Aeration must be initiated during daylight hours. Exception: Enclosures which aerate using an exhaust stack meeting the standard height requirements may exhaust at any time.

14: Minimum Aeration Times

Enclosures must be aerated for the following minimum duration:

a. Four hours if mechanically ventilated using fans, or
b. 12 hours if passively ventilated

Note: The duration of the aeration period should not be confused with the time the aeration zone is in place. The aeration zone is in place for only the first portion of the aeration: four hours at most.

15: Testing Aeration Completeness

The concentration of methyl bromide in the air spaces between the stacked commodity must be less than 5 ppm before the commodity can be moved from the enclosure. Testing of this air space must be done according to approved procedures.

16: Enclosed Storage Areas

Methyl bromide concentrations in enclosed areas (i.e., buildings, warehouses, silos, etc.) where fumigated commodities are stored must be less than 5 ppm before persons may enter. Testing of the air concentration must be done according to approved procedures. No individual may be inside the enclosed area for more than one hour in a 24-hour period.
Note: This condition pertains to areas where commodities are stored, not the fumigation enclosure, except when they are the same.

17: Work Site Plan

The enclosure operator and/or pest control business must complete or revise a Work Site Plan before receiving a permit. A completed Work Site Plan must be submitted to the CAC for evaluation before a Restricted Materials Permit will be issued.

18: Test Results Documentation

The enclosure operator must keep records of all test results for two years and make them available to the CAC and workers (pursuant to Labor Code Section 6408 and Cal-OSHA regulations Title 8, Section 3204) upon request.

Fumigation Enclosure Types

There are specific conditions for each of six different types of fumigation enclosures. The enclosures are classified by the combination of two factors: the amount of methyl bromide the enclosure retains and the method used to aerate. There are two retention categories: pressure tested and retention tested/untested; and three aeration methods: standard height stack, minimum stack, and no stack. These two retention categories and three aeration categories give the six possible combinations of fumigation enclosures listed below:

A1 - Pressure Tested/Standard Height Stack (e.g., quarantine or vacuum chamber)

A2 - Pressure Tested/Minimum Stack (e.g., quarantine or vacuum chamber)

A3 - Pressure Tested/No Stack (e.g., quarantine chamber without a stack)

B1 - Retention Tested or Untested/Standard Height Stack (e.g., typical chamber)

B2 - Retention Tested or Untested/Minimum Stack (e.g., "Butler" with short stack)

B3 - Retention Tested or Untested/No Stack (e.g., tarp fumigation)

Buffer Zones

The amount of time a person spends in areas around commodity fumigations must be limited in order to minimize exposure. Exposure is limited by restricting a person's access to or time spent in areas near enclosures being fumigated or aerated. The size of the buffer zones depends on which of the six types of enclosures is being used. For certain types of enclosures, the amount of methyl bromide used and retained in the enclosure also influences the size of the buffer zone. There are two types of buffer zones: treatment zone and aeration zone. There can be different sizes of treatment zones because of differences in exposure duration. For example, nearby workers would have a smaller treatment zone if they worked for 12 hours, compared to nearby residents who would have a treatment zone based on a 24-hour exposure. A summary of the treatment zones and aeration zones for the various types of fumigations appears in Chart 1.

Enclosure Description

A pressure tested/standard height enclosure is a vacuum chamber or has passed the USDA pressure test. The exhaust stack is at least 10 feet above the enclosure's highest point, at least 10 feet above any major obstruction within 200 feet of the stack and at least as tall as the appropriate value listed in Table 1.

Examples: a quarantine chamber with a tall stack; a vacuum chamber with a tall stack.

19: Treatment Zone

A treatment zone of 10 feet must be established around the enclosure during the fumigation treatment period. Only persons supervising and performing fumigation activities are permitted in the treatment zone during the treatment period. Exception: Limited transit is allowed if unavoidable.

20: Aeration Zone

An aeration zone of 10 feet must be maintained around an enclosure during the first portion of the aeration period. Only persons supervising and performing fumigation activities are permitted in the aeration zone. Exception: Transit along public thoroughfares is allowed. The aeration zone must remain in place for the first four hours of aeration or until the exhaust concentration is less than 5 ppm. The aeration period itself may be of longer duration. Testing must be done according to approved procedures.

21: Vertical Stack Exhaust

The stack must be vented vertically to the outside air. When exhausting, the top of the stack must be free of overhead obstructions.

22: Aeration During Daylight

Does not apply. Aeration may occur at any time.

Enclosure Description

A pressure tested/minimum stack enclosure is a vacuum chamber or has passed the USDA pressure test. The exhaust stack is at least 15 feet above ground and the exhaust exit velocity is at least 600 feet per minute.

Examples: a quarantine chamber with a short stack; a vacuum chamber with a short stack.

19: Treatment Zone

A treatment zone of 10 feet must be established around the enclosure during the fumigation treatment period. Only persons supervising and performing fumigation activities are permitted in the treatment zone during the treatment period. Exception: Limited transit is allowed if unavoidable.

20: Aeration Zone

An aeration zone as specified in Table 3, page C-51, must be maintained around an enclosure during the first portion of the aeration period. Only persons supervising and performing fumigation activities are permitted in the aeration zone. Exception: Transit along public thoroughfares is allowed. The aeration zone must remain in place for the first four hours of aeration or until the exhaust concentration is less than 5 ppm. The aeration period itself may be of longer duration. Testing must be done according to approved procedures.

21: Vertical Stack Exhaust

The stack must be vented vertically to the outside air. When exhausting, the top of the stack must be free of overhead obstructions.

22: Aeration During Daylight

Aeration must be initiated during daylight hours (see permit condition 13).

Enclosure Description

A pressure tested/no stack enclosure is a vacuum chamber or has passed the USDA pressure test, and either has no stack or the exhaust stack is less than 15 feet above ground or the exhaust exit velocity is less than 600 feet per minute.

Example: a quarantine chamber with no stack.

19: Treatment Zone

A treatment zone of 10 feet must be established around the enclosure during the fumigation treatment period. Only persons supervising and performing fumigation activities are permitted in the treatment zone during the treatment period. Exception: Limited transit is allowed if unavoidable.

20: Aeration Zone

An aeration zone as specified in Table 4, page C-52, must be maintained around an enclosure during the first portion of the aeration period. Only persons supervising and performing fumigation activities are permitted in the aeration zone. Exception: Transit along public thoroughfares is allowed. The aeration zone must remain in place for the first four hours of aeration or until the exhaust concentration is less than 5 ppm. The aeration period itself may be of longer duration. Testing must be done according to approved procedures.

21: Vertical Stack Exhaust

Does not apply.

22: Aeration During Daylight

Aeration must be initiated during daylight hours (see permit condition 13).

Enclosure Description

A retention tested or untested/standard height stack enclosure may retain a large or small proportion of the methyl bromide and the exhaust stack is at least 10 feet above the enclosure's highest point, at least 10 feet above any building within 200 feet of the stack and at least as tall as the appropriate value listed in Table 1.
Note: The size of the treatment zone may be minimized by measuring how well the enclosure retains methyl bromide and determining its loss ratio. This is done by performing a DPR-approved test procedure.

Examples: a typical chamber with a tall stack; a "Butler" tank with a tall stack; a building with a tall stack.

19: Treatment Zone

A treatment zone as specified in Table 2, page C-50, must be established around the enclosure during the fumigation treatment period. Only persons supervising and performing fumigation activities are permitted in the treatment zone during the treatment period. Exception: Limited transit is allowed if unavoidable.

Different size zones may be calculated based on the duration of exposure and/or duration of the treatment period. For example, a treatment zone may be calculated for nearby workers based on a 12-hour work shift and a separate treatment zone may be calculated for nearby residents based on 24-hour occupancy.

20: Aeration Zone

An aeration zone of 10 feet must be maintained around an enclosure during the first portion of the aeration period. Only persons supervising and performing fumigation activities are permitted in the aeration zone. Exception: Transit along public thoroughfares is allowed. The aeration zone must remain in place for the first four hours of aeration or until the exhaust concentration is less than 5 ppm. The aeration period itself may be of longer duration. Testing must be done according to approved procedures.

21: Vertical Stack Exhaust

The stack must be vented vertically to the outside air. When exhausting, the top of the stack must be free of overhead obstructions.

22: Aeration During Daylight

Does not apply. Aeration may occur at any time.

Enclosure Description

A retention tested or untested/minimum stack enclosure may retain a large or small proportion of the methyl bromide. The exhaust stack is at least 15 feet above ground and the exhaust exit velocity is at least 600 feet per minute.
Note: The size of the treatment zone may be minimized by measuring how well the enclosure retains methyl bromide and determining its loss ratio. This is done by performing a DPR-approved test procedure.

Examples: a chamber with a short stack; a building exhausted through the roof.

19: Treatment Zone

A treatment zone as specified in Table 2, page C-50, must be established around the enclosure during the fumigation treatment period. Only persons supervising and performing fumigation activities are permitted in the treatment zone during the treatment period. Exception: Limited transit is allowed if unavoidable.

Different size zones may be calculated based on the duration of exposure and/or duration of the treatment period. For example, a treatment zone may be calculated for nearby workers based on a 12- hour work shift and a separate treatment zone may be calculated for nearby residents based on 24-hour occupancy.

20: Aeration Zone

An aeration zone as specified in Table 3, page C-51, must be maintained around an enclosure during the first portion of the aeration period. Only persons supervising and performing fumigation activities are permitted in the aeration zone. Exception: Transit along public thoroughfares is allowed. The aeration zone must remain in place for the first four hours of aeration or until the exhaust concentration is less than 5 ppm. The aeration period itself may be of longer duration. Testing must be done according to approved procedures.

21: Vertical Stack Exhaust

The stack must be vented vertically to the outside air. When exhausting, the top of the stack must be free of overhead obstructions.

22: Aeration During Daylight

Aeration must be initiated during daylight hours (see permit condition 13).

Enclosure Description

A retention tested or untested/no stack enclosure may retain a large or small proportion of the methyl bromide and either has no stack or the exhaust stack is less than 15 feet above ground or the exhaust exit velocity is less than 600 feet per minute.
Note: The size of the buffer zones may be minimized by measuring how well the enclosure retains methyl bromide and determining its loss ratio. This is done by performing a DPR-approved test procedure.

Examples: a typical sea/land container; a building exhausted through open doors and windows; a typical tarpaulin fumigation.

19: Treatment Zone

A treatment zone as specified in Table 2, page C-50, must be established around the enclosure during the fumigation treatment period. Only persons supervising and performing fumigation activities are permitted in the treatment zone during the treatment period. Exception: Limited transit is allowed if unavoidable.

Different size zones may be calculated based on the duration of exposure and/or duration of the treatment period. For example, a treatment zone may be calculated for nearby workers based on a 12-hour work shift, and a separate treatment zone may be calculated for nearby residents based on 24-hour occupancy.

20: Aeration Zone

An aeration zone as specified in Table 4, page C-52, must be maintained around an enclosure during the first portion of the aeration period. Only persons supervising and performing fumigation activities are permitted in the aeration zone. Exception: Transit along public thoroughfares is allowed. The aeration zone must remain in place for the first four hours of aeration or until the exhaust concentration is less than 5 ppm. The aeration period itself may be of longer duration. Testing must be done according to approved procedures.

21: Vertical Stack Exhaust

Does not apply.

22: Aeration During Daylight

Aeration must be initiated during daylight hours (see permit condition 13).

CHART 1
Summary of Buffer Zone Sizes

Retention Category	Aeration Method	Class	Treatment Zone Size	Aeration Zone Size	Aerate Daylight Hours Only
Pressure Tested *(USDA pressure test)*	Standard Height Stack *(Table 1 requirements)**	A1	10 feet	10 feet	NO
	Minimum Stack *(stack 15 ft above ground & exit velocity >600 ft/min)*	A2	10 feet	Table 3	YES
	No Stack	A3	10 feet	Table 4	YES
Retention Tested or Untested *(DPR-approved test or no test)*	Standard Height Stack *(Table 1 requirements)**	B1	Table 2	10 feet	NO
	Minimum Stack *(stack 15 ft above ground & exit velocity >600 ft/min)*	B2	Table 2	Table 3	YES
	No Stack	B3	Table 2	Table 4	YES

* The stack must be at least 10 feet above the enclosure's highest point and at least 10 feet above any major obstruction within 200 feet of the stack and at least as tall as the appropriate value listed in Table 1.

RECOMMENDED PERMIT CONDITIONS

Methyl Bromide
Commodity Fumigation

TABLE 1

Standard Height Exhaust Stack

This table is used to determine the "standard height" (feet) of a stack. A "standard height" exhaust stack is one which is:

1. at least 10 feet above the enclosure's highest point, and
2. at least 10 feet above any major obstruction within 200 feet of the stack, and
3. at least as tall (above ground level) as the appropriate value in the table below

Total Amount of Methyl Bromide Applied (pounds) at the Work Site in a 24-hour Period ROUND UP

Exit Velocity (feet per minute)*	50	100	150	200	250	300	350	400	450	500	550	600	650	700	750	800	850	900	950	1000
600	21	23	26	28	30	32	34	37	39	41	43	45	48	50	52	54	57	59	61	63
700	19	21	23	25	28	30	32	34	36	39	41	43	45	47	50	52	54	56	58	61
800	16	18	21	23	25	27	30	32	34	36	38	41	43	45	47	49	52	54	56	58
900	15	16	18	20	23	25	27	29	31	34	36	38	40	43	45	47	49	51	54	56
1000	15	15	16	18	20	22	25	27	29	31	33	36	38	40	42	45	47	49	51	53
1100	15	15	15	16	18	20	22	24	27	29	31	33	35	38	40	42	44	46	49	51
1200	15	15	15	15	15	18	20	22	24	26	29	31	33	35	37	40	42	44	46	48
1300	15	15	15	15	15	15	17	19	22	24	26	28	31	33	35	37	39	42	44	46
1400	15	15	15	15	15	15	15	17	19	21	24	26	28	30	32	35	37	39	41	44
1500	15	15	15	15	15	15	15	15	17	19	21	23	26	28	30	32	34	37	39	41
1600	15	15	15	15	15	15	15	15	15	17	19	21	23	25	28	30	32	34	36	39
1700	15	15	15	15	15	15	15	15	15	15	16	19	21	23	25	27	30	32	34	36
1800	15	15	15	15	15	15	15	15	15	15	15	16	18	20	23	25	27	29	32	34
1900	15	15	15	15	15	15	15	15	15	15	15	15	16	18	20	22	25	27	29	31
2000	15	15	15	15	15	15	15	15	15	15	15	15	15	16	18	20	22	24	27	29
2100	15	15	15	15	15	15	15	15	15	15	15	15	15	15	15	18	20	22	24	26
2200	15	15	15	15	15	15	15	15	15	15	15	15	15	15	15	15	17	20	22	24
2300	15	15	15	15	15	15	15	15	15	15	15	15	15	15	15	15	15	17	19	21
2400	15	15	15	15	15	15	15	15	15	15	15	15	15	15	15	15	15	15	17	19
2500	15	15	15	15	15	15	15	15	15	15	15	15	15	15	15	15	15	15	15	17

ROUND DOWN

$$\text{*Exit Velocity} = \frac{\text{Rated Fan Capacity (cubic feet per minute)}}{\text{Stack Cross-Sectional Area (square feet)}}$$

area of circle = $3.14 \times \text{radius}^2$

TABLE 2
Treatment Zone Sizes for
Retention Tested and Untested Enclosures

This table is used to determine the treatment zone size (feet) surrounding enclosures which are retention tested or untested. Consult with the County Agricultural Commissioner to determine the sizes for multiple fumigations in a 24-hour period.

Concentration Lost (pounds per 1000 cubic feet)* ROUND UP

Volume Fumigated in a 24-hour Period (cubic feet) ROUND UP	0.2	0.4	0.6	0.8	1.0	1.2	1.4	1.6	1.8	2.0	2.2	2.4	2.6	2.8	3.0
1000	30	30	30	30	30	30	30	30	30	30	30	30	30	30	30
2000	30	30	30	30	30	30	30	30	30	35	40	45	50	55	60
3000	30	30	30	30	30	30	35	40	50	55	60	65	70	75	80
4000	30	30	30	30	30	40	50	55	65	70	80	85	90	95	100
6000	30	30	30	35	50	60	70	80	90	95	105	110	120	125	130
8000	30	30	30	50	65	80	90	100	110	120	125	135	140	150	155
10000	30	30	45	65	85	100	115	125	135	145	160	165	175	185	195
15000	30	30	60	80	100	120	130	145	160	170	180	190	200	210	220
20000	30	40	70	95	115	135	150	170	180	195	205	220	230	240	250
25000	30	45	80	105	130	150	170	185	200	215	230	240	255	265	275
30000	30	55	90	120	145	165	185	205	220	235	250	265	280	290	305
35000	30	60	100	130	160	180	200	225	240	255	275	290	300	315	330
40000	30	65	110	145	175	200	220	240	260	280	295	310	325	340	355
45000	30	75	120	155	185	210	235	260	280	295	315	335	350	365	380
50000	35	80	130	165	200	230	250	275	300	320	340	355	370	390	405
60000	40	95	145	185	225	255	285	310	335	355	380	400	420	440	455
70000	45	105	165	210	250	285	315	345	370	395	420	440	460	485	505
80000	50	115	180	225	270	305	340	375	400	425	455	480	500	525	545
90000	55	125	190	240	290	330	365	400	430	455	485	510	535	560	585
100000	60	135	205	260	310	355	390	430	460	490	525	550	575	605	625
110000	65	145	220	280	335	380	420	460	490	525	560	585	615	645	670
120000	70	155	235	295	350	400	440	485	520	555	590	620	650	680	705
130000	75	165	245	310	370	420	465	510	545	580	620	650	680	715	740
140000	80	175	260	325	390	440	485	535	570	610	650	680	715	745	775
150000	85	180	270	340	405	460	505	555	595	635	675	710	745	780	810
170000	90	195	295	370	435	495	545	600	640	685	730	765	800	840	870
190000	95	210	315	390	465	530	580	640	685	730	775	815	850	895	930
210000	100	225	330	415	490	560	615	675	725	770	820	860	900	945	980
230000	105	235	350	435	515	585	645	710	760	810	860	905	945	990	1030
250000	110	250	365	455	540	615	675	740	795	845	900	945	990	1035	1075

* The Concentration Lost is calculated from the application rate, exposure duration and loss ratio (proportion of methyl bromide leaked from the enclosure), according to the formula below. The exposure duration for workers is 12 hours or the treatment duration, whichever is less. The exposure duration for residents is the duration of treatment (24 hours maximum). The loss ratio is determined from a DPR-approved test; for untested enclosures use **0.030**.

Concentration Lost = [Application Rate (pounds per 1000 cubic feet)] × [Exposure Duration (hours)] × [Loss Ratio]

TABLE 3
Aeration Zone Sizes for Minimum Stacks

This table is used to determine the aeration zone size (feet) required **during the aeration** of enclosures with exhaust stacks having the following characteristics:

1. The top of the exhaust stack is at least 15 feet above ground level, and
2. The exit velocity is at least 600 feet per minute

$$\text{Exit Velocity} = \frac{\text{Rated Fan Capacity (cubic feet per minute)}}{\text{Stack Cross-Sectional Area (square feet)}}$$

Total Retained in a 24-hour Period (pounds)*	Aeration Zone (feet)
50	10
51	220
ROUND UP 100	220
150	360
200	490
250	610
300	720
350	820
400	920
450	1000
500	1090
550	1170
600	1250
650	1320
700	1390
750	1460
800	1530
850	1600
900	1670
950	1730
1000	1790

* The Total Retained is calculated from the amount of methyl bromide, treatment duration and loss ratio (proportion of methyl bromide leaked from the enclosure), according to the formulas below. The loss ratio is determined from a DPR-approved test.

Proportion Retained** = 1 – [Treatment Duration (hours) × Loss Ratio]

For untested enclosures, use **0.90 for the Proportion Retained

Total Retained = [Amount of Methyl Bromide Applied in a 24-hour Period (pounds)] × [Proportion Retained]

TABLE 4
Aeration Zone Sizes for No Stacks

This table is used to determine the aeration zone size (feet) of enclosures that have no stack. Consult with the county agricultural commissioner to determine the aeration zone size when aerating multiple enclosures in a 24-hour period.

Concentration Retained (pounds per 1000 cubic feet)* ROUND UP

Volume Aerated in a 24-hour Period (cubic feet) ROUND UP	0.4	0.8	1.2	1.6	2.0	2.4	2.8	3.2	3.6	4.0	4.4	4.8	5.2	5.6	6.0
1000	30	30	30	30	30	30	40	50	60	70	75	85	90	95	105
2000	30	30	30	40	60	75	90	100	115	125	135	145	155	160	170
3000	30	30	45	70	90	110	125	140	155	165	180	190	200	210	220
4000	30	30	65	95	115	135	155	170	185	200	215	225	240	250	260
6000	30	55	100	130	160	180	205	225	240	260	275	290	305	320	335
8000	35	80	125	165	195	220	245	265	290	305	325	345	360	375	390
10000	50	105	155	195	225	255	285	310	330	350	375	390	410	430	445
15000	65	140	200	250	290	330	360	395	420	450	475	500	525	545	565
20000	80	175	240	300	345	390	425	460	495	525	560	585	615	640	665
25000	95	200	275	340	390	440	480	520	560	595	630	660	695	725	750
30000	110	225	305	375	430	485	530	575	615	655	695	730	765	795	830
35000	125	245	335	410	470	525	575	625	670	710	750	790	830	865	900
40000	135	265	360	440	505	565	620	670	720	765	810	850	890	930	965
45000	145	285	385	470	540	600	660	715	765	815	860	905	945	990	1030
50000	160	305	410	495	570	635	700	755	810	860	910	955	1000	1045	1090
60000	180	340	455	550	630	705	770	835	895	950	1005	1060	1110	1155	1205
70000	200	370	495	600	685	765	840	910	975	1035	1095	1150	1205	1260	1315
80000	220	400	535	645	740	830	905	980	1050	1120	1180	1245	1305	1360	1420
90000	235	430	575	690	795	885	970	1050	1125	1195	1265	1330	1395	1460	1520
100000	255	460	615	735	845	945	1035	1120	1200	1275	1350	1420	1485	1555	1620
110000	270	490	650	780	895	1000	1095	1185	1270	1350	1425	1500	1575	1645	1710
120000	285	515	685	820	945	1050	1155	1245	1335	1420	1505	1580	1660	1730	1805
130000	300	545	720	865	990	1105	1210	1310	1400	1490	1575	1660	1740	1820	1895
140000	315	570	750	905	1035	1155	1265	1370	1465	1560	1650	1735	1820	1900	1980
150000	330	595	785	945	1080	1205	1320	1425	1530	1625	1720	1810	1895	1980	2065
170000	360	640	845	1015	1160	1295	1420	1535	1640	1745	1845	1940	2035	2125	2215
190000	385	685	905	1080	1240	1380	1510	1630	1745	1855	1960	2065	2165	2260	2355
210000	410	725	955	1140	1305	1450	1590	1715	1835	1950	2060	2165	2270	2370	2470
230000	430	760	995	1190	1360	1515	1655	1785	1910	2030	2140	2250	2355	2460	2560
250000	450	785	1030	1230	1405	1560	1705	1840	1965	2085	2200	2315	2420	2525	2625

* The Concentration Retained is calculated from the rate, treatment duration and loss ratio (proportion of methyl bromide leaked from the enclosure), according to the formulas below. The loss ratio is determined from a DPR-approved test.

Proportion Retained** = 1 – [Treatment Duration (hours) × Loss Ratio]

For untested enclosures, use **0.90 for the Proportion Retained

Concentration Retained = [Application Rate (pounds per 1000 cubic feet)] × [Proportion Retained]

Worksheet/Notes

FINAL PERMIT CONDITIONS

Methyl Bromide
Commodity Fumigation

GENERAL INFORMATION

Fumigation Site: _____ Permit Number: _____

Address: _____ City: _____ Zip: _____

Contact Person: _____ Phone: _____
(Facility Operator, Grower, QAC, QAL, etc.)

Pest Control Business: _____ Permit Number: _____

Address: _____ City: _____ Zip: _____

Contact Person: _____ Phone: _____
(QAL with the appropriate category)

I VERIFY THAT THE ATTACHED PERMIT CONDITIONS WILL BE FOLLOWED

Permit Applicant: _____ Date: _____
(Facility Operator)

1: Maximum Application Rate

Work Site Plan B.1

A maximum application rate of 8 pounds per 1000 cubic feet or the rate specified by the label may be used, whichever is less.

☐ Complies
☐ Does Not Apply
☐ Alternative: _____

See page C-48 for possible additional restrictions to comply with the buffer zones.

2: Total Methyl Bromide

Work Site Plan B.2

The total amount of methyl bromide per work site must not exceed 1000 pounds in a 24-hour period.

☐ Complies
☐ Does Not Apply
☐ Alternative: _____

See page C-48 for possible additional restrictions to comply with the buffer zones.

3: Other Types of Applications

Work Site Plan B.3

No other types of methyl bromide applications (e.g., field, greenhouse, potting soil, structural) can occur at the work site for the preceding 48 hours or the following 24 hours of a commodity application.

☐ Complies
☐ Does Not Apply
☐ Alternative: _____

4: Enclosed Area and Common Walls

Work Site Plan B.4 & 5

The following types of fumigations are prohibited:

- those inside an enclosed area with people present
- enclosures which share a common wall with another enclosed area with people present

☐ Complies
☐ Does Not Apply
☐ Alternative: _____

5: Outside Introduction

Application from outside the enclosure through a closed system is required. Releasing methyl bromide from inside the enclosure is prohibited.

Work Site Plan B.6

☐ Complies
☐ Does Not Apply
☐ Alternative: _____

6: Gas-tight Fumigant Lines

All fumigant lines must be gas-tight. Fumigant lines, valves, fittings, etc. which are routinely adjusted or changed must be checked for leaks after each adjustment.

Work Site Plan B.7

☐ Complies
☐ Does Not Apply
☐ Alternative: _____

7: Test Equipment Seals

The enclosure must be sealed where instrument sampling lines pass through enclosure walls.

Work Site Plan B.8

☐ Complies
☐ Does Not Apply
☐ Alternative: _____

8: Test Equipment Exhaust

Exhaust from sampling equipment must be vented away from people and to outside air or back into the enclosure.

Work Site Plan B.9

☐ Complies
☐ Does Not Apply
☐ Alternative: _____

9: Fumigant Line Purge

When introducing methyl bromide from an enclosed control room, applicators must use nitrogen gas or compressed air to purge fumigant lines prior to changing cylinders.

Work Site Plan B.10

☐ Complies
☐ Does Not Apply
☐ Alternative: _____

10: Control Room Ventilation

Enclosed control rooms must be mechanically ventilated during fumigation if workers are present.

Work Site Plan B.11

☐ Complies
☐ Does Not Apply
☐ Alternative: _____

11: Control Room Storage

Methyl bromide cylinders must not be stored inside enclosed control rooms.

Work Site Plan B.12

☐ Complies
☐ Does Not Apply
☐ Alternative: _____

12: Aeration Initiation

Work Site Plan B.13

Persons who initiate aeration by manually breaking a seal must wear a self-contained breathing apparatus (SCBA). Exception: enclosures for which aeration is initiated remotely, such as chambers.

☐ Complies
☐ Does Not Apply
☐ Alternative: _____

13: Aeration During Daylight

Work Site Plan D.3

Aeration must be initiated during daylight hours. Exception: Enclosures which aerate using an exhaust stack meeting the standard height requirements may exhaust at any time.

☐ Complies
☐ Does Not Apply
☐ Alternative: _____

14: Minimum Aeration Times

Work Site Plan B.14 & B.15

Enclosures must be aerated for the following minimum duration:

a. 4 hours if mechanically ventilated using fans, or
b. 12 hours if passively ventilated

☐ Complies
☐ Does Not Apply
☐ Alternative: _____

15: Testing Aeration Completeness

Work Site Plan B.16

The concentration of methyl bromide in the air spaces between the stacked commodity must be less than 5 ppm before the commodity can be moved from the enclosure. Testing of this air space must be done according to approved procedures.

☐ Complies
☐ Does Not Apply
☐ Alternative: _____

16: Enclosed Storage Areas

Work Site Plan
B.17 & B.18

Methyl bromide concentrations in enclosed areas (i.e. buildings, warehouses, silos, etc.) where fumigated commodities are stored must be less than 5 ppm before persons may enter. Testing of the air concentration must be done according to approved procedures. No individual may be inside the enclosed area for more than one hour in a 24-hour period.

☐ Complies
☐ Does Not Apply
☐ Alternative: _____

17: Work Site Plan

The enclosure operator and/or pest control business must complete or revise a Work Site Plan before receiving a permit.

☐ Complies
☐ Does Not Apply
☐ Alternative: _____

18: Test Results Documentation

Work Site Plan B.19

The enclosure operator must keep records of all test results for 2 years and make them available to the County Agricultural Commissioner and workers upon request.

☐ Complies
☐ Does Not Apply
☐ Alternative: _____

This part needs to be completed for each enclosure.

Enclosure Identification/Description: _____

(check one)

Work Site Plan C.1 - 11

- ☐ A1 - Pressure Tested/Standard Height Stack
- ☐ A2 - Pressure Tested/Minimum Stack
- ☐ A3 - Pressure Tested/No Stack
- ☐ B1 - Retention Tested or Untested/Standard Height Stack
- ☐ B2 - Retention Tested or Untested/Minimum Stack
- ☐ B3 - Retention Tested or Untested/No Stack

Ancillary Buffer Zone Requirements:

Maximum Application Rate: _____

Maximum Fumigated Volume: _____

Treatment Duration: _____

Other Enclosures Which May Be Used Within 24 hrs: _____

19: Treatment Zone

Work Site Plan C.12 - 20

A treatment zone of _____ feet must be established around the enclosure during the fumigation treatment period. Only persons supervising and performing fumigation activities are permitted in the treatment zone during the treatment period. A separate treatment zone of _____ feet for workers may be used.

20: Aeration Zone

Work Site Plan C.12 - 20

An aeration zone of _____ feet must be maintained around an enclosure during the first portion of the aeration period. Only persons supervising and performing fumigation activities are permitted in the aeration zone. The aeration zone must remain in place for the first four hours of aeration or until the exhaust concentration is less than 5 ppm.

21: Vertical Stack Exhaust

Work Site Plan D.1, D.2

The stack must be vented vertically to the outside air. When exhausting, the top of the stack must be free of overhead obstructions.

- ☐ Complies
- ☐ Does Not Apply
- ☐ Alternative: _____

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RECOMMENDED PERMIT CONDITIONS NON-RESIDENTIAL FACILITES (<4500 LBS)

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RECOMMENDED PERMIT CONDITIONS FOR COMMODITY FUMIGATIONS & NON-RESIDENTIAL FACILITES (>4500 LBS)

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SULFURYL FLUORIDE PERMIT CONDITIONS -- DECISION TABLE

If the fumigation type is:	**And the total amount used will be:**	**Your permit conditions start on:**
Non-Residential Processing & Storage Facilities	**< 4500 lbs**	Page C-65
Non-Residential Processing & Storage Facilities	**> 4500 lbs**	The CAC will refer your information to DPR. DPR will prepare a custom site plan for your fumigation.
Commodity	**Any amount**	Page C-70

Sulfuryl Fluoride Permit Conditions for Non-Residential (Enclosed Areas), Less than or equal to 4500 lbs

1) **General Requirement for Use of ProFume©®:** Restricted material permits for the use of ProFume©® shall not be issued to a facility operator and/or pest control operator who has not received a Dow AgroSciences certification showing they have attended a ProFume©® stewardship training meeting.

2) **Restricted Material Permit Conditions for Sulfuryl Fluoride Use in Nonresidential Facilities (Enclosed areas)**
   a) For fumigations where **less than or equal to 4500 lbs** of sulfuryl fluoride will be applied within a 24 hour period, the following permit conditions apply:
      i) **Buffer zone requirements**:
         (1) **Duration**: A buffer zone must be maintained during fumigation and through the completion of aeration.
         (2) **Distance**: Use Table 1 to determine buffer zone distance based on the target fumigation concentration that will be maintained (oz SF/1000 ft3).
         (3) **Occupation**: The buffer zone extends from the edge of the fumigated building. There may not be any occupied structures within the buffer zone. Only persons supervising and performing fumigation activities are permitted in the buffer zone. Exception: Transit along public thoroughfares is allowed.
      ii) **Aeration Requirements**:
         (1) Minimum fumigant release height above ground level: 50 feet.
         (2) Aeration must be initiated during daylight hours:
            (a) Not later than one hour prior to sunset, and
            (b) Not earlier than one hour following sunrise.

Table 1 – Use table to determine the buffer zone distance from edge of the fumigation facility to the nearest occupied structure.

Targeted Fumigation Conc. (oz/1000ft3)	*Buffer Zone Distance (ft)*
16	30
32	60
48	100
64	140
80	180
96	220
112	260
128	300

1: Maximum Application Rate

A maximum application rate of 8 pounds per 1000 cubic feet or the rate specified by the label may be used, whichever is less.

2: Total Sulfuryl Fluoride

The total amount of sulfuryl fluoride per work site must not exceed 1000 pounds in a 24-hour period.

3: Other Types of Applications

This permit condition does not apply to sulfuryl fluoride applications.

4: Enclosed Area and Common Walls

The following types of fumigations are prohibited unless mitigation options are identified in the Work Site Plan:

– those inside an enclosed area with people present

– enclosures which share a common wall with another enclosed area with people present

Examples: A tarpaulin fumigation inside a warehouse is prohibited. Using a chamber which shares a common wall with an office is prohibited.

5: Outside Introduction

Application from outside the enclosure through a closed system is required. Releasing fumigant from inside the enclosure is prohibited unless mitigation options are identified in the Work Site Plan.

6: Gas-tight Fumigant Lines

All fumigant lines must be gas-tight. Fumigant lines, valves, fittings, etc. which are routinely adjusted or changed must be checked for leaks after each adjustment.

> *Examples: When changing* sulfuryl fluoride *cylinders, the connection between the introduction line and the cylinder must be checked for leaks. The cylinder valve must be checked for leaks after opening.*

7: Test Equipment Seals

The enclosure must be sealed where instrument sampling lines pass through enclosure walls.

> *Example: Fumiscope leads must be placed and the hole at the chamber or enclosure wall sealed prior to the fumigation.*

8: Test Equipment Exhaust

Exhaust from sampling equipment must be vented away from people and to outside air or back into the enclosure.

9: Fumigant Line Purge

When introducing fumigant from an enclosed control room, applicators must use nitrogen gas or compressed air to purge fumigant lines prior to changing cylinders.

10: Control Room Ventilation

Enclosed control rooms must be mechanically ventilated during fumigation if workers are present.

11: Control Room Storage

Sulfuryl fluoride cylinders must not be stored inside enclosed control rooms.

NOTE: The following conditions pertain to aeration of the fumigation enclosure, not aeration of areas where commodities are stored, except when they are the same.

12: Aeration Initiation

Persons who initiate aeration by manually breaking a seal must wear a self-contained breathing apparatus (SCBA). Exception: enclosures for which aeration is initiated remotely, such as chambers.

Examples requiring SCBA: breaking seals on tarpaulin fumigations, opening sea/land container doors

13: Aeration During Daylight

Aeration must be initiated during daylight hours[1]. Exception: Enclosures which aerate using an exhaust stack meeting the standard height requirements may exhaust at any time.

14: Minimum Aeration Times

Enclosures must be aerated for the following minimum duration:

a. Four hours if mechanically ventilated using fans, or
b. 12 hours if passively ventilated

Note: The duration of the aeration period should not be confused with the time the aeration zone is in place. The aeration zone is in place for only the first portion of the aeration: four hours at most.

15: Testing Aeration Completeness

The concentration of sulfuryl fluoride in the air spaces between the stacked commodity must be less than 1 ppm before the commodity can be moved from the enclosure. Testing of this air space must be done according to approved procedures.

[1] Daylight hours = Not later than one hour prior to sunset and not earlier than one hour following sunrise.

16: Enclosed Storage Areas

Sulfuryl fluoride concentrations in enclosed areas (i.e., buildings, warehouses, silos, etc.) where fumigated commodities are stored must be less than 1 ppm before persons may enter. Testing of the air concentration must be done according to approved procedures. No individual may be inside the enclosed area for more than one hour in a 24-hour period.
Note: This condition pertains to areas where commodities are stored, not the fumigation enclosure, except when they are the same.

17: Work Site Plan

The enclosure operator and/or pest control business must complete or revise a Work Site Plan before receiving a permit. A completed Work Site Plan must be submitted to the CAC for evaluation before a Restricted Materials Permit will be issued.

18: Test Results Documentation

The enclosure operator must keep records of all test results for two years and make them available to the CAC and workers (pursuant to Labor Code section 6408 and Cal-OSHA regulations Title 8, section 3204) upon request.

Fumigation Enclosure Types

There are specific conditions for each of six different types of fumigation enclosures. The enclosures are classified by the combination of two factors: the amount of fumigant the enclosure retains and the method used to aerate. There are two retention categories: pressure tested and retention tested/untested; and three aeration methods: standard height stack, minimum stack, and no stack. These two retention categories and three aeration categories give the six possible combinations of fumigation enclosures listed below:

A1 - Pressure Tested/Standard Height Stack (e.g., quarantine or vacuum chamber)

A2 - Pressure Tested/Minimum Stack (e.g., quarantine or vacuum chamber)

A3 - Pressure Tested/No Stack (e.g., quarantine chamber without a stack)

B1 - Retention Tested or Untested/Standard Height Stack (e.g., typical chamber)

B2 - Retention Tested or Untested/Minimum Stack (e.g., "Butler" with short stack)

B3 - Retention Tested or Untested/No Stack (e.g., tarp fumigation)

Buffer Zones

The amount of time a person spends in areas around commodity fumigations must be limited in order to minimize exposure. Exposure is limited by restricting a person's access to or time spent in areas near enclosures being fumigated or aerated. The size of the buffer zones depends on which of the six types of enclosures is being used. For certain types of enclosures, the amount of sulfuryl fluoride used and retained in the enclosure also influences the size of the buffer zone. There are two types of buffer zones: treatment zone and aeration zone. There can be different sizes of treatment zones because of differences in exposure duration. For example, nearby workers would have a smaller treatment zone if they worked for 12 hours, compared to nearby residents who would have a treatment zone based on a 24-hour exposure. A summary of the treatment zones and aeration zones for the various types of fumigations appears in Chart 1.

Enclosure Description

A pressure tested/standard height enclosure is a vacuum chamber or has passed the USDA pressure test. The exhaust stack is at least 10 feet above the enclosure's highest point, at least 10 feet above any major obstruction within 200 feet of the stack and at least as tall as the appropriate value listed in Table 1.

Examples: a quarantine chamber with a tall stack; a vacuum chamber with a tall stack.

19: Treatment Zone

A treatment zone of 10 feet must be established around the enclosure during the fumigation treatment period. Only persons supervising and performing fumigation activities are permitted in the treatment zone during the treatment period. Exception: Limited transit is allowed if unavoidable.

20: Aeration Zone

An aeration zone of 10 feet must be maintained around an enclosure during the first portion of the aeration period. Only persons supervising and performing fumigation activities are permitted in the aeration zone. Exception: Transit along public thoroughfares is allowed. The aeration zone must remain in place for the first four hours of aeration or until the exhaust concentration is less than 1 ppm. The aeration period itself may be of longer duration. Testing must be done according to approved procedures.

21: Vertical Stack Exhaust

The stack must be vented vertically to the outside air. When exhausting, the top of the stack must be free of overhead obstructions.

22: Aeration During Daylight

Does not apply. Aeration may occur at any time.

Enclosure Description

A pressure tested/minimum stack enclosure is a vacuum chamber or has passed the USDA pressure test. The exhaust stack is at least 15 feet above ground and the exhaust exit velocity is at least 600 feet per minute.

Examples: a quarantine chamber with a short stack; a vacuum chamber with a short stack.

19: Treatment Zone

A treatment zone of 10 feet must be established around the enclosure during the fumigation treatment period. Only persons supervising and performing fumigation activities are permitted in the treatment zone during the treatment period. Exception: Limited transit is allowed if unavoidable.

20: Aeration Zone

An aeration zone as specified in Table 3, page C-78, must be maintained around an enclosure during the first portion of the aeration period. Only persons supervising and performing fumigation activities are permitted in the aeration zone. Exception: Transit along public thoroughfares is allowed. The aeration zone must remain in place for the first four hours of aeration or until the exhaust concentration of sulfuryl fluoride is less than 1 ppm. The aeration period itself may be of longer duration. Testing must be done according to approved procedures.

21: Vertical Stack Exhaust

The stack must be vented vertically to the outside air. When exhausting, the top of the stack must be free of overhead obstructions.

22: Aeration During Daylight

Aeration must be initiated during daylight hours (see permit condition 13).

Enclosure Description

A pressure tested/no stack enclosure is a vacuum chamber or has passed the USDA pressure test, and either has no stack or the exhaust stack is less than 15 feet above ground or the exhaust exit velocity is less than 600 feet per minute.

Example: a quarantine chamber with no stack.

19: Treatment Zone

A treatment zone of 10 feet must be established around the enclosure during the fumigation treatment period. Only persons supervising and performing fumigation activities are permitted in the treatment zone during the treatment period. Exception: Limited transit is allowed if unavoidable.

20: Aeration Zone

An aeration zone as specified in Table 4, page C-79, must be maintained around an enclosure during the first portion of the aeration period. Only persons supervising and performing fumigation activities are permitted in the aeration zone. Exception: Transit along public thoroughfares is allowed. The aeration zone must remain in place for the first four hours of aeration or until the exhaust concentration of sulfuryl fluoride is less than 1 ppm. The aeration period itself may be of longer duration. Testing must be done according to approved procedures.

21: Vertical Stack Exhaust

Does not apply.

22: Aeration During Daylight

Aeration must be initiated during daylight hours (see permit condition 13).

Enclosure Description

A retention tested or untested/standard height stack enclosure may retain a large or small proportion of the Sulfuryl Fluoride and the exhaust stack is at least 10 feet above the enclosure's highest point, at least 10 feet above any building within 200 feet of the stack and at least as tall as the appropriate value listed in Table 1.
Note: The size of the treatment zone may be minimized by measuring how well the enclosure fumigant and determining its loss ratio. This is done by performing a DPR-approved test procedure.

Examples: a typical chamber with a tall stack, a "Butler" tank with a tall stack, a building with a tall stack.

19: Treatment Zone

A treatment zone as specified in Table 2, page C-77, must be established around the enclosure during the fumigation treatment period. Only persons supervising and performing fumigation activities are permitted in the treatment zone during the treatment period. Exception: Limited transit is allowed if unavoidable.

Different size zones may be calculated based on the duration of exposure and/or duration of the treatment period. For example, a treatment zone may be calculated for nearby workers based on a 12-hour work shift, and a separate treatment zone may be calculated for nearby residents based on 24-hour occupancy.

20: Aeration Zone

An aeration zone of 10 feet must be maintained around an enclosure during the first portion of the aeration period. Only persons supervising and performing fumigation activities are permitted in the aeration zone. Exception: Transit along public thoroughfares is allowed. The aeration zone must remain in place for the first four hours of aeration or until the exhaust concentration is less than 1 ppm. The aeration period itself may be of longer duration. Testing must be done according to approved procedures.

21: Vertical Stack Exhaust

The stack must be vented vertically to the outside air. When exhausting, the top of the stack must be free of overhead obstructions.

22: Aeration During Daylight

Does not apply. Aeration may occur at any time.

Enclosure Description

A retention tested or untested/minimum stack enclosure may retain a large or small proportion of the fumigant. The exhaust stack is at least 15 feet above ground and the exhaust exit velocity is at least 600 feet per minute.
Note: The size of the treatment zone may be minimized by measuring how well the enclosure retains fumigant and determining its loss ratio. This is done by performing a DPR-approved test procedure.

Examples: a chamber with a short stack, a building exhausted through the roof.

19: Treatment Zone

A treatment zone as specified in Table 2, page C-77, must be established around the enclosure during the fumigation treatment period. Only persons supervising and performing fumigation activities are permitted in the treatment zone during the treatment period. Exception: Limited transit is allowed if unavoidable.

Different size zones may be calculated based on the duration of exposure and/or duration of the treatment period. For example, a treatment zone may be calculated for nearby workers based on a 12-hour work shift, and a separate treatment zone may be calculated for nearby residents based on 24-hour occupancy.

20: Aeration Zone

An aeration zone as specified in Table 3, page C-78, must be maintained around an enclosure during the first portion of the aeration period. Only persons supervising and performing fumigation activities are permitted in the aeration zone. Exception: Transit along public thoroughfares is allowed. The aeration zone must remain in place for the first four hours of aeration or until the exhaust concentration of sulfuryl fluoride is less than 1 ppm. The aeration period itself may be of longer duration. Testing must be done according to approved procedures.

21: Vertical Stack Exhaust

The stack must be vented vertically to the outside air. When exhausting, the top of the stack must be free of overhead obstructions.

22: Aeration During Daylight

Aeration must be initiated during daylight hours (see permit condition 13).

Enclosure Description

A retention tested or untested/no stack enclosure may retain a large or small proportion of the fumigant and either has no stack or the exhaust stack is less than 15 feet above ground or the exhaust exit velocity is less than 600 feet per minute.
Note: The size of the buffer zones may be minimized by measuring how well the enclosure retains fumigant and determining its loss ratio. This is done by performing a DPR-approved test procedure.

Examples: a typical sea/land containe, a building exhausted through open doors and windows, a typical tarpaulin fumigation.

19: Treatment Zone

A treatment zone as specified in Table 2, page C-77, must be established around the enclosure during the fumigation treatment period. Only persons supervising and performing fumigation activities are permitted in the treatment zone during the treatment period. Exception: Limited transit is allowed if unavoidable.

Different size zones may be calculated based on the duration of exposure and/or duration of the treatment period. For example, a treatment zone may be calculated for nearby workers based on a 12-hour work shift, and a separate treatment zone may be calculated for nearby residents based on 24-hour occupancy.

20: Aeration Zone

An aeration zone as specified in Table 4, page C-79, must be maintained around an enclosure during the first portion of the aeration period. Only persons supervising and performing fumigation activities are permitted in the aeration zone. Exception: Transit along public thoroughfares is allowed. The aeration zone must remain in place for the first four hours of aeration or until the exhaust concentration of sulfuryl fluoride is less than 1 ppm. The aeration period itself may be of longer duration. Testing must be done according to approved procedures.

21: Vertical Stack Exhaust

Does not apply.

22: Aeration During Daylight

Aeration must be initiated during daylight hours (see permit condition 13).

RECOMMENDED PERMIT CONDITIONS

Sulfuryl Fluoride
Commodity Fumigation

CHART 1
Summary of Buffer Zone Sizes

Retention Category	Aeration Method	Class	Treatment Zone Size	Aeration Zone Size	Aerate Daylight Hours Only
Pressure Tested *(USDA pressure test)*	Standard Height Stack *(Table 1 requirements)**	A1	10 feet	10 feet	NO
	Minimum Stack *(stack 15 ft above ground & exit velocity >600 ft/min)*	A2	10 feet	Table 3	YES
	No Stack	A3	10 feet	Table 4	YES
Retention Tested or Untested *(DPR-approved test or no test)*	Standard Height Stack *(Table 1 requirements)**	B1	Table 2	10 feet	NO
	Minimum Stack *(stack 15 ft above ground & exit velocity >600 ft/min)*	B2	Table 2	Table 3	YES
	No Stack	B3	Table 2	Table 4	YES

* The stack must be at least 10 feet above the enclosure's highest point and at least 10 feet above any major obstruction within 200 feet of the stack and at least as tall as the appropriate value listed in Table 1.

RECOMMENDED PERMIT CONDITIONS

Sulfuryl Fluoride
Commodity Fumigation

TABLE 1

Standard Height Exhaust Stack

This table is used to determine the "standard height" (feet) of a stack. A "standard height" exhaust stack is one which is:

1. at least 10 feet above the enclosure's highest point, and
2. at least 10 feet above any major obstruction within 200 feet of the stack, and
3. at least as tall (above ground level) as the appropriate value in the table below

Total Amount of Sulfuryl Fluoride Applied (pounds) at the Work Site in a 24-hour Period - **ROUND UP**

Exit Velocity (feet per minute)*	50	100	150	200	250	300	350	400	450	500	550	600	650	700	750	800	850	900	950	1000
600	21	23	26	28	30	32	34	37	39	41	43	45	48	50	52	54	57	59	61	63
700	19	21	23	25	28	30	32	34	36	39	41	43	45	47	50	52	54	56	58	61
800	16	18	21	23	25	27	30	32	34	36	38	41	43	45	47	49	52	54	56	58
900	15	16	18	20	23	25	27	29	31	34	36	38	40	43	45	47	49	51	54	56
1000	15	15	16	18	20	22	25	27	29	31	33	36	38	40	42	45	47	49	51	53
1100	15	15	15	16	18	20	22	24	27	29	31	33	35	38	40	42	44	46	49	51
1200	15	15	15	15	15	18	20	22	24	26	29	31	33	35	37	40	42	44	46	48
1300	15	15	15	15	15	15	17	19	22	24	26	28	31	33	35	37	39	42	44	46
1400	15	15	15	15	15	15	15	17	19	21	24	26	28	30	32	35	37	39	41	44
1500	15	15	15	15	15	15	15	15	17	19	21	23	26	28	30	32	34	37	39	41
ROUND DOWN 1600	15	15	15	15	15	15	15	15	15	17	19	21	23	25	28	30	32	34	36	39
1700	15	15	15	15	15	15	15	15	15	15	16	19	21	23	25	27	30	32	34	36
1800	15	15	15	15	15	15	15	15	15	15	15	16	18	20	23	25	27	29	32	34
1900	15	15	15	15	15	15	15	15	15	15	15	15	16	18	20	22	25	27	29	31
2000	15	15	15	15	15	15	15	15	15	15	15	15	15	16	18	20	22	24	27	29
2100	15	15	15	15	15	15	15	15	15	15	15	15	15	15	15	18	20	22	24	26
2200	15	15	15	15	15	15	15	15	15	15	15	15	15	15	15	15	17	20	22	24
2300	15	15	15	15	15	15	15	15	15	15	15	15	15	15	15	15	15	17	19	21
2400	15	15	15	15	15	15	15	15	15	15	15	15	15	15	15	15	15	15	17	19
2500	15	15	15	15	15	15	15	15	15	15	15	15	15	15	15	15	15	15	15	17

$$\text{*Exit Velocity} = \frac{\text{Rated Fan Capacity (cubic feet per minute)}}{\text{Stack Cross-Sectional Area (square feet)}}$$

area of circle = $3.14 \times \text{radius}^2$

TABLE 2
Treatment Zone Sizes for
Retention Tested and Untested Enclosures

This table is used to determine the treatment zone size (feet) surrounding enclosures which are retention tested or untested. Consult with the CAC to determine the sizes for multiple fumigations in a 24-hour period.

Concentration Lost (pounds per 1000 cubic feet)* ROUND UP

Volume Fumigated in a 24-hour Period (cubic feet) ROUND UP	0.2	0.4	0.6	0.8	1.0	1.2	1.4	1.6	1.8	2.0	2.2	2.4	2.6	2.8	3.0
1000	30	30	30	30	30	30	30	30	30	30	30	30	30	30	30
2000	30	30	30	30	30	30	30	30	30	35	40	45	50	55	60
3000	30	30	30	30	30	30	35	40	50	55	60	65	70	75	80
4000	30	30	30	30	30	40	50	55	65	70	80	85	90	95	100
6000	30	30	30	35	50	60	70	80	90	95	105	110	120	125	130
8000	30	30	30	50	65	80	90	100	110	120	125	135	140	150	155
10000	30	30	45	65	85	100	115	125	135	145	160	165	175	185	195
15000	30	30	60	80	100	120	130	145	160	170	180	190	200	210	220
20000	30	40	70	95	115	135	150	170	180	195	205	220	230	240	250
25000	30	45	80	105	130	150	170	185	200	215	230	240	255	265	275
30000	30	55	90	120	145	165	185	205	220	235	250	265	280	290	305
35000	30	60	100	130	160	180	200	225	240	255	275	290	300	315	330
40000	30	65	110	145	175	200	220	240	260	280	295	310	325	340	355
45000	30	75	120	155	185	210	235	260	280	295	315	335	350	365	380
50000	35	80	130	165	200	230	250	275	300	320	340	355	370	390	405
60000	40	95	145	185	225	255	285	310	335	355	380	400	420	440	455
70000	45	105	165	210	250	285	315	345	370	395	420	440	460	485	505
80000	50	115	180	225	270	305	340	375	400	425	455	480	500	525	545
90000	55	125	190	240	290	330	365	400	430	455	485	510	535	560	585
100000	60	135	205	260	310	355	390	430	460	490	525	550	575	605	625
110000	65	145	220	280	335	380	420	460	490	525	560	585	615	645	670
120000	70	155	235	295	350	400	440	485	520	555	590	620	650	680	705
130000	75	165	245	310	370	420	465	510	545	580	620	650	680	715	740
140000	80	175	260	325	390	440	485	535	570	610	650	680	715	745	775
150000	85	180	270	340	405	460	505	555	595	635	675	710	745	780	810
170000	90	195	295	370	435	495	545	600	640	685	730	765	800	840	870
190000	95	210	315	390	465	530	580	640	685	730	775	815	850	895	930
210000	100	225	330	415	490	560	615	675	725	770	820	860	900	945	980
230000	105	235	350	435	515	585	645	710	760	810	860	905	945	990	1030
250000	110	250	365	455	540	615	675	740	795	845	900	945	990	1035	1075

* The Concentration Lost is calculated from the application rate, exposure duration, and loss ratio (proportion of fumigant leaked from the enclosure), according to the formula below. The exposure duration for workers is 12 hours or the treatment duration, whichever is less. The exposure duration for residents is the duration of treatment (24 hours maximum). The loss ratio is determined from a DPR approved test; for untested enclosures use **0.030**.

Concentration Lost = [Application Rate (pounds per 1000 cubic feet)] × [Exposure Duration (hours)] × [Loss Ratio]

TABLE 3
Aeration Zone Sizes for Minimum Stacks

This table is used to determine the aeration zone size (feet) required **during the aeration** of enclosures with exhaust stacks having the following characteristics:

1. The top of the exhaust stack is at least 15 feet above ground level, and
2. The exit velocity is at least 600 feet per minute

$$\text{Exit Velocity} = \frac{\text{Rated Fan Capacity (cubic feet per minute)}}{\text{Stack Cross-Sectional Area (square feet)}}$$

Total Retained in a 24-hour Period (pounds)*	Aeration Zone (feet)
50	10
51	220
ROUND UP 100	220
150	360
200	490
250	610
300	720
350	820
400	920
450	1000
500	1090
550	1170
600	1250
650	1320
700	1390
750	1460
800	1530
850	1600
900	1670
950	1730
1000	1790

* The Total Retained is calculated from the amount of fumigant, treatment duration and loss ratio (proportion of fumigant leaked from the enclosure), according to the formulas below. The loss ratio is determined from a DPR-approved test.

Proportion Retained** = 1 – [Treatment Duration (hours) × Loss Ratio]
For untested enclosures, use **0.90 for the Proportion Retained

Total Retained = [Amount of fumigant Applied in a 24 hour Period (pounds)] × [Proportion Retained]

TABLE 4
Aeration Zone Sizes for No Stacks

This table is used to determine the aeration zone size (feet) of enclosures that have no stack. Consult with the CAC to determine the aeration zone size when aerating multiple enclosures in a 24-hour period.

Concentration Retained (pounds per 1000 cubic feet)* ROUND UP

Volume Aerated in a 24-hour Period (cubic feet) ROUND UP	0.4	0.8	1.2	1.6	2.0	2.4	2.8	3.2	3.6	4.0	4.4	4.8	5.2	5.6	6.0
1000	30	30	30	30	30	30	40	50	60	70	75	85	90	95	105
2000	30	30	30	40	60	75	90	100	115	125	135	145	155	160	170
3000	30	30	45	70	90	110	125	140	155	165	180	190	200	210	220
4000	30	30	65	95	115	135	155	170	185	200	215	225	240	250	260
6000	30	55	100	130	160	180	205	225	240	260	275	290	305	320	335
8000	35	80	125	165	195	220	245	265	290	305	325	345	360	375	390
10000	50	105	155	195	225	255	285	310	330	350	375	390	410	430	445
15000	65	140	200	250	290	330	360	395	420	450	475	500	525	545	565
20000	80	175	240	300	345	390	425	460	495	525	560	585	615	640	665
25000	95	200	275	340	390	440	480	520	560	595	630	660	695	725	750
30000	110	225	305	375	430	485	530	575	615	655	695	730	765	795	830
35000	125	245	335	410	470	525	575	625	670	710	750	790	830	865	900
40000	135	265	360	440	505	565	620	670	720	765	810	850	890	930	965
45000	145	285	385	470	540	600	660	715	765	815	860	905	945	990	1030
50000	160	305	410	495	570	635	700	755	810	860	910	955	1000	1045	1090
60000	180	340	455	550	630	705	770	835	895	950	1005	1060	1110	1155	1205
70000	200	370	495	600	685	765	840	910	975	1035	1095	1150	1205	1260	1315
80000	220	400	535	645	740	830	905	980	1050	1120	1180	1245	1305	1360	1420
90000	235	430	575	690	795	885	970	1050	1125	1195	1265	1330	1395	1460	1520
100000	255	460	615	735	845	945	1035	1120	1200	1275	1350	1420	1485	1555	1620
110000	270	490	650	780	895	1000	1095	1185	1270	1350	1425	1500	1575	1645	1710
120000	285	515	685	820	945	1050	1155	1245	1335	1420	1505	1580	1660	1730	1805
130000	300	545	720	865	990	1105	1210	1310	1400	1490	1575	1660	1740	1820	1895
140000	315	570	750	905	1035	1155	1265	1370	1465	1560	1650	1735	1820	1900	1980
150000	330	595	785	945	1080	1205	1320	1425	1530	1625	1720	1810	1895	1980	2065
170000	360	640	845	1015	1160	1295	1420	1535	1640	1745	1845	1940	2035	2125	2215
190000	385	685	905	1080	1240	1380	1510	1630	1745	1855	1960	2065	2165	2260	2355
210000	410	725	955	1140	1305	1450	1590	1715	1835	1950	2060	2165	2270	2370	2470
230000	430	760	995	1190	1360	1515	1655	1785	1910	2030	2140	2250	2355	2460	2560
250000	450	785	1030	1230	1405	1560	1705	1840	1965	2085	2200	2315	2420	2525	2625

* The Concentration Retained is calculated from the rate, treatment duration, and loss ratio (proportion of fumigant leaked from the enclosure), according to the formulas below. The loss ratio is determined from a DPR-approved test.

Proportion Retained** = 1 – [Treatment Duration (hours) × Loss Ratio]
For untested enclosures, use **0.90 for the Proportion Retained

Concentration Retained = [Application Rate (pounds per 1000 cubic feet)] × [Proportion Retained]

FINAL PERMIT CONDITIONS

Sulfuryl Fluoride
Commodity Fumigation

GENERAL INFORMATION

Fumigation Site: _____ Permit Number: _____

Address: _____ City: _____ Zip: _____

Contact Person: _____ Phone: _____
(Facility Operator, Grower, QAC, QAL, etc.)

Pest Control Business: _____ Permit Number: _____

Address: _____ City: _____ Zip: _____

Contact Person: _____ Phone: _____
(QAL with the appropriate category)

I VERIFY THAT THE ATTACHED PERMIT CONDITIONS WILL BE FOLLOWED

Permit Applicant: _____ Date: _____
(Facility Operator)

1: Maximum Application Rate

Work Site Plan B.1

A maximum application rate of 8 pounds per 1000 cubic feet or the rate specified by the label may be used, whichever is less.

☐ Complies
☐ Does Not Apply
☐ Alternative: _____

See page C-75 for possible additional restrictions to comply with the buffer zones.

2: Total Sulfuryl Fluoride

Work Site Plan B.2

The total amount of sulfuryl fluoride per work site must not exceed 1000 pounds in a 24-hour period.

☐ Complies
☐ Does Not Apply
☐ Alternative: _____

See page C-75 for possible additional restrictions to comply with the buffer zones.

3: Other Types of Applications

Work Site Plan B.3

This permit condition does not apply to sulfuryl fluoride fumigations.

4: Enclosed Area and Common Walls

Work Site Plan B.4 & 5

The following types of fumigations are prohibited:

- those inside an enclosed area with people present
- enclosures which share a common wall with another enclosed area with people present

☐ Complies
☐ Does Not Apply
☐ Alternative: _____

5: Outside Introduction

Application from outside the enclosure through a closed system is required. Releasing sulfuryl fluoride from inside the enclosure is prohibited.

Work Site Plan B.6

☐ Complies
☐ Does Not Apply
☐ Alternative: _____

6: Gas-tight Fumigant Lines

All fumigant lines must be gas-tight. Fumigant lines, valves, fittings, etc. which are routinely adjusted or changed must be checked for leaks after each adjustment.

Work Site Plan B.7

☐ Complies
☐ Does Not Apply
☐ Alternative: _____

7: Test Equipment Seals

The enclosure must be sealed where instrument sampling lines pass through enclosure walls.

Work Site Plan B.8

☐ Complies
☐ Does Not Apply
☐ Alternative: _____

8: Test Equipment Exhaust

Exhaust from sampling equipment must be vented away from people and to outside air or back into the enclosure.

Work Site Plan B.9

☐ Complies
☐ Does Not Apply
☐ Alternative: _____

9: Fumigant Line Purge

When introducing sulfuryl fluoride from an enclosed control room, applicators must use nitrogen gas or compressed air to purge fumigant lines prior to changing cylinders.

Work Site Plan B.10

☐ Complies
☐ Does Not Apply
☐ Alternative: _____

10: Control Room Ventilation

Enclosed control rooms must be mechanically ventilated during fumigation if workers are present.

Work Site Plan B.11

☐ Complies
☐ Does Not Apply
☐ Alternative: _____

11: Control Room Storage

Sulfuryl fluoride cylinders must not be stored inside enclosed control rooms.

Work Site Plan B.12

☐ Complies
☐ Does Not Apply
☐ Alternative: _____

12: Aeration Initiation

Work Site Plan B.13

Persons who initiate aeration by manually breaking a seal must wear a self-contained breathing apparatus (SCBA).
Exception: Enclosures for which aeration is initiated remotely, such as chambers.

☐ Complies
☐ Does Not Apply
☐ Alternative: _____

13: Aeration During Daylight

Work Site Plan D.3

Aeration must be initiated during daylight hours.
Exception: Enclosures which aerate using an exhaust stack meeting the standard height requirements may exhaust at any time.

☐ Complies
☐ Does Not Apply
☐ Alternative: _____

14: Minimum Aeration Times

Work Site Plan B.14 & B.15

Enclosures must be aerated for the following minimum duration:
a. 4 hours if mechanically ventilated using fans, or
b. 12 hours if passively ventilated

☐ Complies
☐ Does Not Apply
☐ Alternative: _____

15: Testing Aeration Completeness

Work Site Plan B.16

The concentration of sulfuryl fluoride in the air spaces between the stacked commodity must be less than 1 ppm before the commodity can be moved from the enclosure. Testing of this air space must be done according to approved procedures.

☐ Complies
☐ Does Not Apply
☐ Alternative: _____

16: Enclosed Storage Areas

Work Site Plan
B.17 & B.18

Sulfuryl fluoride concentrations in enclosed areas (i.e., buildings, warehouses, silos, etc.) where fumigated commodities are stored must be less than 1 ppm before persons may enter. Testing of the air concentration must be done according to approved procedures. No individual may be inside the enclosed area for more than one hour in a 24-hour period.

☐ Complies
☐ Does Not Apply
☐ Alternative: _____

17: Work Site Plan

The enclosure operator and/or pest control business must complete or revise a Work Site Plan before receiving a permit.

☐ Complies
☐ Does Not Apply
☐ Alternative: _____

18: Test Results Documentation

Work Site Plan B.19

The enclosure operator must keep records of all test results for 2 years and make them available to the County Agricultural Commissioner and workers upon request.

☐ Complies
☐ Does Not Apply
☐ Alternative: _____

This part needs to be completed for each enclosure.

Enclosure Identification/Description: _____

(check one)

Work Site Plan C.1 - 11

- ☐ A1 - Pressure Tested/Standard Height Stack
- ☐ A2 - Pressure Tested/Minimum Stack
- ☐ A3 - Pressure Tested/No Stack
- ☐ B1 - Retention Tested or Untested/Standard Height Stack
- ☐ B2 - Retention Tested or Untested/Minimum Stack
- ☐ B3 - Retention Tested or Untested/No Stack

Ancillary Buffer Zone Requirements:

Maximum Application Rate: _____

Maximum Fumigated Volume: _____

Treatment Duration: _____

Other Enclosures Which May Be Used Within 24 hrs: _____

19: Treatment Zone

Work Site Plan C.12 - 20

A treatment zone of _____ feet must be established around the enclosure during the fumigation treatment period. Only persons supervising and performing fumigation activities are permitted in the treatment zone during the treatment period. A separate treatment zone of _____ feet for workers may be used.

20: Aeration Zone

Work Site Plan C.12 - 20

An aeration zone of _____ feet must be maintained around an enclosure during the first portion of the aeration period. Only persons supervising and performing fumigation activities are permitted in the aeration zone. The aeration zone must remain in place for the first four hours of aeration or until the exhaust concentration is less than 1 ppm.

21: Vertical Stack Exhaust

Work Site Plan D.1, D.2

The stack must be vented vertically to the outside air. When exhausting, the top of the stack must be free of overhead obstructions.

- ☐ Complies
- ☐ Does Not Apply
- ☐ Alternative: _____

Subsection C.6.2

Recommended Permit Conditions for Methyl Bromide Field Fumigation

Incorporation by reference	The *Guidance Manual--Methyl Bromide Field Soil Fumigation* (rev. 12/8/04) is incorporated by reference as Subsection C.6.2.
Guidance manual availability	Due to the size of the *Guidance Manual--Methyl Bromide Field Soil Fumigation*, it is not included. You can view the guidance manual at: http://www.cdpr.ca.gov/docs/county/training/methbrom/mebrman.pdf

Subsection C.6.3

Recommended Permit Conditions for Soil Fumigation Within A Greenhouse

I. DEFINITIONS

A. **Application** includes treatment and aeration; it is complete when each application block has been aerated.

B. **Application block** is the actual area within a greenhouse that will be fumigated in any 24-hour period. The application block cannot exceed 50,000 square feet. The maximum square footage may be reduced due to the distance to an occupied structure, previously fumigation application blocks, future greenhouse fumigations, and adjacent workers.

C. **Application rate**, in pounds/acre, is equal to the amount of methyl bromide (active ingredient) in the formulated product.

D. **Application site** is the treatment area within a greenhouse which may be comprised of more than one application block.

E. **Buffer zone** is the area that must be maintained between the application block and those places where people conduct certain activities or practices. Buffer zones are in effect until the tarp has been removed **and** aeration is complete. For greenhouse soil fumigations, the two types of zones to be considered are:

1. **Resident Buffer Zone** is the area surrounding an application block outside of which people may "dwell." See the definition: **dwell**.

2. **Worker Buffer Zone** is the area surrounding an application block outside of which people may "work or occupy." See the definition: **work or occupy**.

F. The **buffer zone duration** for an application block begins at the start of fumigation and ends 48 hours after the tarpaulin has been removed, when aeration is considered complete. The length of this period depends upon the timing and method of tarp removal.

G. **Dwell** means that a person is able to or will occupy a structure for any or all parts of a 24-hour period. This includes, but is not limited to: homes, hospitals, convalescent homes, boarding schools, day schools, parks, hotels, apartment complexes, and other sensitive areas.

RECOMMENDED PERMIT CONDITIONS FOR SOIL FUMIGATION WITHIN A GREENHOUSE

I. DEFINITIONS (Continued)

H. **Fieldworkers** are those employees who engage in work activities in an application block **after** aeration is complete.

I. **Frequency of applications** refers to the interval of time elapsed from the beginning of the application of methyl bromide at one application block to the beginning of the application of methyl bromide at another application block.

J. An **isolated block** is one that is 1,300 feet or more from another greenhouse soil fumigation **or** at least 48 hours has elapsed, or will elapse, before another greenhouse soil fumigation is conducted.

K. A **non-isolated block** is one that is less than 1,300 feet from another greenhouse soil fumigation **and** less than 48 hours have elapsed, or will elapse, before another greenhouse soil fumigation is conducted.

L. **Pesticide Handler** includes employees involved in fumigation, aeration activities, tarp repair, and tarp removal **prior** to the completion of aeration.

M. **Work or occupy** means that a person is able to or will be at a place for **eight hours or less**. This includes, but is not limited to: fields, offices, warehouses, stores, malls, factories, greenhouses, packing sheds, and workshops

II. WORKER SAFETY REQUIREMENTS

A. Restricted Entry and Warning Sign Posting Requirements

1. As a condition of the permit, warning signs shall be posted around the application block for the duration of the restricted entry interval. Refer to 3 CCR section 6776(b) for the requirements.

2. The restricted entry interval for an application block begins at the start of fumigation and ends when aeration is complete.

RECOMMENDED PERMIT CONDITIONS FOR SOIL FUMIGATION WITHIN A GREENHOUSE

A. Restricted Entry and Warning Sign Posting Requirements (Continued)

3. Aeration is considered complete 48 hours after the tarp has been removed and when the requirements listed in Section VIII, Tarpaulin and Soil Aeration Procedures have been met.

   For example, if the tarp is removed from the application block after three days (the minimum required fumigation time) and the soil is aerated for two days (minimum aeration time), then the restricted entry interval lasts for five days from the start of fumigation.

4. Fieldworkers shall not be allowed to enter an application block to perform cultural activities until the restricted entry interval has elapsed and warning signs have been removed.

5. Title 3 of the California Code of Regulations section 6782(c), covering fumigation of enclosed spaces, requires that warning signs be posted on or near all greenhouse entrances until fumigation and ventilation are complete and the premises are safe for reentering. Refer to section 6782(c) for the warning sign requirements.

B. Pesticide Handler and Field Worker Requirements

1. The employer must maintain use records for **all** employees involved in application, tarp repair, and tarp removal activities. The record shall identify the person, work activity(ies), date(s), duration of handling, U.S. Environmental Protection Agency Registration Number, and brand name of the methyl bromide product handled.

2. The employer must maintain these use records at a central location for two years and make them available to the county agricultural commissioner upon request for review.

C. Tarpaulin Repair

1. The decision to conduct tarp repair must be made by a certified applicator (the permittee, the permittee's authorized representative, or the pest control operator) on a job-by-job basis. The decision should be based on, but not limited to, hazard to the public, residents, or workers; size of the damaged area(s); timing of damage; and feasibility of repair.

RECOMMENDED PERMIT CONDITIONS FOR SOIL FUMIGATION WITHIN A GREENHOUSE

C. Tarpaulin Repair (Continued)

2. Title 3, California Code of Regulations section 6780 requires the use of approved respiratory protective equipment if the concentration of methyl bromide cannot be controlled and an employee's exposure would exceed 5 ppm. Areas to be repaired must be tested by the certified applicator, using an appropriate testing device, and shown to have less than 5 ppm of methyl bromide in the projected work areas before unprotected employees are allowed to enter to conduct tarp repair. The certified applicator must wear approved respiratory protective equipment when conducting these tests.

D. Workers in Adjacent Sites

1. The property operator and/or pest control operator must be aware of adjacent sites where activity is likely while the Worker Buffer Zone is in effect, following the start of the application. They must ensure that the adjacent property operators are advised, **prior to the fumigation**, to keep their workers outside of the Worker Buffer Zone during that period of time.

2. The property operator and/or pest control operator may give notice to adjoining property operators verbally or in writing.

3. If entry occurs as the result of a failure to be aware of worker activity and subsequent failure to advise adjacent property operators to keep workers out, the operator of the property fumigated and the person performing pest control are in violation of the methyl bromide permit conditions.

RECOMMENDED PERMIT CONDITIONS FOR SOIL FUMIGATION WITHIN A GREENHOUSE

III. APPLICATION REQUIREMENTS

A. **Soil injections using tractor-drawn chisels or similar devices are prohibited within a greenhouse.**

B. All soil application of methyl bromide within a greenhouse shall comply with the raised-tarp fumigation methods specified on the registered pesticide label. **All delivery tubes shall be anchored in place under the tarp and shall not be moved during the application of methyl bromide.** Follow the manufacturer's recommendations for application tubing.

C. The fumigant must be introduced from outside of the greenhouse. If entry into the greenhouse enclosure is required to perform a function necessary for the application, a Self-Contained Breathing Apparatus must be worn.

D. All fittings, connections, and valves must be checked for methyl bromide leaks prior to fumigation. If cylinders are replaced during the fumigation process, the connections and valves must be checked for leaks prior to continuing the job.

E. Only the tarpaulins listed on the approved manufacturers list are to be used. (See Section IX, List of Manufacturers of High Barrier Approved Tarpaulins.) They have been determined to meet or exceed the following standards for a "high barrier" tarpaulin: a permeability factor of less than eight millimeters methyl bromide per hour, per square meter, per 1,000 ppm of methyl bromide under the tarpaulin at 30 degrees Celsius. Polyethylene tarp of six-mil thickness or greater meets these criteria.

F. A **maximum of 450 pounds** of methyl bromide (active ingredient) per acre is allowed.

G. A **maximum aggregate of 50,000 square feet** will be allowed in a 48-hour period.

H. All greenhouse fumigations must be isolated from all other types of methyl bromide fumigations.

RECOMMENDED PERMIT CONDITIONS FOR SOIL FUMIGATION WITHIN A GREENHOUSE

IV. BUFFER ZONE DETERMINATION

A. A buffer zone is the area surrounding an application block **outside** of which certain activities or practices are allowed. The buffer zone is in effect until the tarp has been removed and aeration is complete (See Section VIII, Tarp Removal). The size of the buffer zone will be determined by the proposed size of the application block and the application rate. The buffer zone surrounding an application block may have to be modified due to the proximity to occupied structures, distance to adjacent workers, and nearness to completed or proposed greenhouse fumigations.

B. The buffer zone is partitioned into the Resident Buffer Zone and the Worker Buffer Zone. The size of the Resident Buffer Zone is based on the assumption that a person may "dwell" at a place for any or all parts of a **24 hour-period.** The size of the Worker Buffer Zone is based on the assumption that people work or recreate at a place for **eight hours or less.**

C. Transit through the Worker Buffer Zone by the permittee's employees is limited to infrequent and unavoidable trips. Routine or repeated transit through this buffer zone is prohibited.

D. The buffer zones begin at the edges of the treated piles and extend in all directions regardless of buildings or property boundaries.

E. Procedures: Isolated Blocks

1. To determine the **Resident Buffer Zone** surrounding an isolated block, use the application rate and the area of the application block and apply these values to Table 1.

2. To determine the **Worker Buffer Zone** surrounding an isolated block, first divide the application rate by **three**. Then, using the adjusted application rate and the area of the application block, apply these values to Table 1.

IV. BUFFER ZONE DETERMINATION (Continued)

F. Procedures: Non-Isolated Blocks

1. Determine the highest application rate for all application blocks within 1,300 feet.

2. Compute the sum of the areas, in square feet, of the block to be evaluated and the next largest block within 1,300 feet.

3. To determine the **Resident Buffer Zone**, use the highest application rate and the sum of the application block areas and apply these values to Table 1.

4. To determine the **Worker Buffer Zone**, divide the highest application rate by **three**. Use the adjusted application rate and the sum of the application block areas and apply these values to Table 1.

5. If there are **only** two non-isolated application blocks, then the buffer zones determined above will be the **same** for each block.

   If there are **more** than two non-isolated blocks, then each pair of blocks, the one under evaluation and the next largest, will have to be considered individually. This may result in each block having different buffer zones even though they are not isolated from the others.

RECOMMENDED PERMIT CONDITIONS FOR SOIL FUMIGATION WITHIN A GREENHOUSE

V. BUFFER ZONE DURATION

A. The Resident and Worker Buffer Zones that surround an application block are in effect *from the start of the fumigation* until aeration is complete. Aeration is considered complete **after** the tarp has been removed **and** 48 hours have elapsed since tarp removal was completed. See Section VIII, Tarp Removal.

   For example: the tarp was removed three days (minimum time allowed) after the fumigation was completed and the block was allowed to aerate for the required 48 hours following tarp removal. The buffer zone would be in effect for five days from the start of fumigation in an application block.

B. Determine the proposed Resident Buffer Zone by measuring the distance between the edge of the application block and the **edge of the property line**, not the physical structure associated with the property. This includes places where people are occupying.

   People are not allowed to "dwell" within the Resident Buffer Zone. Residences within the buffer zone **must** be vacated while the buffer zone is in effect. If the resident(s) cannot or will not vacate the building(s), then the property operator must decrease the acreage to be treated or the rate of methyl bromide to be used so that the building lies outside of the buffer zone.

C. If there is an occupied commercial building or workers within the proposed Worker Buffer Zone and the workers were unable to vacate the premises, then the application must either be rescheduled to coincide with the worker's day off or the acreage/rate must be decreased to reduce the buffer zone.

D. If there is a recreational area within the Worker Buffer Zone where people are expected to spend large amounts of time, the application must be rescheduled or amended to accommodate this activity. If the people are just walking, bicycling, or driving through the area without stopping, the application does not need to be changed.

E. This requirement applies to all persons, including the property operator.

F. If the application is stopped due to weather or breakdowns, then the buffer zone duration starts over at the beginning of the next day's application.

VI. NOTICE OF INTENT MODIFICATION

A. The county agricultural commissioner must receive a Notice of Intent at least 24 hours prior to commencement of fumigation of any application block with methyl bromide for a greenhouse soil fumigation. The Notice of Intent must indicate the day and the hour the application is intended to commence.

B. Unless a waiver is granted by the county agricultural commissioner, fumigation of any application block must not commence sooner than the starting time indicated on the Notice of Intent. Nor, must the fumigation commence later than 12 hours after the intended starting time submitted with the Notice of Intent. If fumigation of an application block does not commence within this time frame, a new Notice of Intent must be submitted, but no 24-hour waiting period is required unless notified by the county agricultural commissioner.

C. For multiple application blocks to be fumigated sequentially, the county agricultural commissioner may allow a Notice of Intent with a "schedule" to be submitted in lieu of a Notice of Intent for each application block to be fumigated. The schedule must include a map and must specify the date and time each application block is intended to be fumigated.

D. The 24-hour Notice of Intent waiting period may be waived if the county agricultural commissioner determines that effective pest control cannot be attained otherwise, or, 24 hours are not necessary to adequately evaluate the intended application.

E. The reasons for granting each waiver must be documented and a record maintained by the county agricultural commissioner.

F. The operator of the property to be treated and the person performing pest control, if different, must be aware of adjacent sites where there is a reasonable possibility of **work activity** occurring while the **Worker Buffer Zone is in effect**, and must ensure that operators of those adjacent properties are advised to keep fieldworkers out of those areas during that period of time.

RECOMMENDED PERMIT CONDITIONS FOR SOIL FUMIGATION WITHIN A GREENHOUSE

VII. GREENHOUSE REENTRY REQUIREMENTS

A. If the greenhouse is **not enclosed**, the air monitoring requirements listed in this section may be waived. This determination should be based on the size and number of openings in the greenhouse, length of time the greenhouse will remain open, local wind conditions, the proximity to obstructions, the application rate, and the size of the fumigation. Other parameters may apply according to the specific situation. If only doors and vents are opened (regardless of ventilation), the greenhouse should be considered **enclosed**.

B. Entry by any person, other than a trained and protected pesticide handler into an **enclosed** greenhouse, is **prohibited** from the start of application until 48 hours after application AND the air concentration has been measured and found to be less than 5 ppm in the working area(s).

C. Entry by any person, other than a trained and protected pesticide handler, is **prohibited** for 24 hours following the start of aeration (tarp cutting, tarp removal, breaking seals). Note: 3 CCR section 6782(d) **prohibits** the release of a fumigant into an enclosed, occupied work area.

D. Entry into an enclosed greenhouse by unprotected workers, when not prohibited above, will be allowed only after air monitoring is conducted according to the protocol listed in Appendix 1. Work time restrictions will be based on the air monitoring test results. Air monitoring and entry restrictions will continue until aeration is complete.

E. The permittee shall prohibit all work activities within the Worker Buffer Zone surrounding a fumigated application block. The Worker Buffer Zone is in effect until soil aeration is complete. This prohibition shall be in effect for all greenhouse types, whether enclosed or open.

F. If the Worker Buffer Zone extends into adjacent greenhouses, workers may occupy those areas within the adjacent greenhouse that are outside of the Worker Buffer Zone without additional air monitoring or restriction.

G. A Self-Contained Breathing Apparatus shall be worn when entry into an enclosed greenhouse is required during the time periods listed in VII-B and VII-C. A Self-Contained Breathing Apparatus shall be worn when entry into a Worker Buffer Zone and/or the application block is required before aeration is complete regardless of greenhouse type (enclosed or open).

RECOMMENDED PERMIT CONDITIONS FOR SOIL FUMIGATION WITHIN A GREENHOUSE

VII. GREENHOUSE REENTRY REQUIREMENTS (Continued)

H. If the greenhouse is enclosed, the measured airborne levels of methyl bromide must be less than 1 ppm **and** soil aeration must be complete before unrestricted entry into all areas of the greenhouse is permitted.

   If the greenhouse is not enclosed, then soil aeration must be complete before unrestricted entry is permitted.

VIII. TARPAULIN REMOVAL AND SOIL AERATION PROCEDURES

A. The tarpaulin must remain on the application block for at least three days (72 hours) following the application.

B. A Self-Contained Breathing Apparatus **shall** be used while the tarpaulin is being removed (without aeration), slit, or while breaking soil-to-tarp or tarp-to-tarp seals.

C. If the tarp is slit or the seals broken, rather than being completely removed, the treated area shall be aerated for a minimum of one day (24 hours) after finishing this activity.

   The tarpaulin may be removed, without using a Self-Contained Breathing Apparatus, only after the aeration period is complete and air monitoring has been done according to the requirements listed in Appendix I. The same limitations listed in Appendix I apply to persons engaged in tarp removal.

D. The soil must remain undisturbed for a minimum of two days (48 hours) after the tarpaulin has been completely removed. When this time period has elapsed and air levels have been tested and shown to be less than 1 ppm methyl bromide (as required in Section VII-H), then the restricted entry interval and buffer zone periods are over.

IX. LIST OF MANUFACTURERS OF HIGH BARRIER APPROVED TARPAULINS

The current list of approved tarpaulins is available at DPR's web site at:
http://www.cdpr.ca.gov/docs/dprdocs/methbrom/fum_regs.htm

Under the section, **Methyl Bromide**, select **Approved tarpaulins**.

RECOMMENDED PERMIT CONDITIONS FOR SOIL FUMIGATION WITHIN A GREENHOUSE

TABLE 1. Buffer Zone Distances (In Feet) for Greenhouse Applications of Methyl Bromide

There are two steps in determining the appropriate size of the Resident and Worker Buffer Zones for an application block. First, determine if the block is isolated or not; refer to the definitions in Section I.

To determine the size of the Resident Buffer Zone, select the appropriate number of square feet in the left-hand column. Then, select the application rate (pounds/acre) from the top row. The Resident Buffer Zone is the value where the square foot row and the rate column intersect. To determine the Worker Buffer Zone, divide the application rate by three and follow the instructions for the Resident Buffer Zone.

Area Treated (Round up)		**Application Rate: Pounds Per Acre (Round up to next highest value)**											
Square feet	Acres	175	200	225	250	275	300	325	350	375	400	425	450
5,000	0.11	20	20	20	20	20	20	20	20	20	25	25	30
10,000	0.23	20	20	20	25	25	30	35	40	45	50	55	60
15,000	0.34	20	20	25	30	40	50	55	65	70	80	90	95
20,000	0.46	20	20	30	40	50	60	75	85	95	105	115	125
25,000	0.57	20	25	40	50	60	75	85	100	115	125	140	155
30,000	0.69	20	30	45	60	70	85	105	115	135	150	165	180
35,000	0.80	20	30	50	65	80	95	115	135	150	165	180	200
40,000	0.92	20	35	55	70	90	105	125	145	165	180	200	220
45,000	1.03	20	40	60	75	95	115	140	160	180	200	220	240
50,000	1.15	25	40	60	85	105	125	150	175	190	215	235	260

RECOMMENDED PERMIT CONDITIONS FOR SOIL FUMIGATION WITHIN A GREENHOUSE

APPENDIX I

A. Testing Procedure

1. If more than two hours have elapsed since the last test, then a Self-Contained Breathing Apparatus must be worn or testing must be performed remotely.

2. Air monitoring must be performed within the work area where concentrations are assumed to be the highest. The test location(s) will depend on the proximity of people to the application block and the ventilation patterns within the enclosed greenhouse. If the work location is not known or changes over time, several locations need to be tested.

3. The first test must be performed shortly before each work shift and before any people are allowed to enter the greenhouse.

4. The air monitoring results will determine the length of time people will be allowed within the enclosed greenhouse. Work time is the cumulative amount of time a person spends within the greenhouse. It does not include time spent outside of the greenhouse.

   Use the following work and testing schedule **for each work shift**. If the work shift will be longer than two hours, then subsequent tests are required. If they show higher concentrations than the initial test, then the work schedule must be adjusted to the new concentration. For example: the first test shows 1 ppm methyl bromide in the work area. People may occupy that area for up to four hours, providing a second test is performed after two hours. If the second test shows that the level of methyl bromide has risen to **3 ppm**, then the people must be removed from the work area because according to the chart, they are allowed two hours of exposure at that level of methyl bromide.

Maximum PPM Allowed Per Test	**Work Time Restriction (Per 24 hours)**	**Colorimetric Tube**	**Tests Required**
5 ppm	1 hour	5 ppm or less	initial test
3 ppm	2 hours	3 ppm or less	initial test
1 ppm	4 hours	1 ppm or less	initial test, repeat at 2 hours
ND*	8 hours	0.5 ppm or less	initial test, Repeat every 2 hours

RECOMMENDED PERMIT CONDITIONS FOR SOIL FUMIGATION WITHIN A GREENHOUSE

APPENDIX I (Continued)

5. Testing and work time restrictions continue until the end of soil aeration and air monitoring within the greenhouse shows that airborne levels of methyl bromide are less than 1 ppm. Testing may be discontinued, prior to completion of aeration, if no further work will take place within the greenhouse.

6. Employers must maintain records of the air monitoring results. The record must include, at least, the date/time of fumigation and air monitoring; person performing the test(s); greenhouse site identification; location of the fumigation within the greenhouse; location(s) of the air monitoring test(s); colorimetric tube model number and detection limit; and the colorimetric tube reading(s). The information may be recorded on the following form. These records must be made available to employees upon request.

	Test 1	Test 2	Test 3
Greenhouse Site Identification			
Fumigation Location			
Application Block Size			
Rate of Methyl Bromide			
Date/Time Start of Fumigation			
Date/Time Start of Aeration			
Person Performing Test(s)			
Date/Time of Test(s)			
Test Location(s)			
Test Results (ppm)			
Colorimetric Tube Model No.			
Colorimetric Tube Detection Limit			
Comments			

APPENDIX I (Continued)

B. Colorimetric Detector Tubes

These are tubes (approximately ¼" X 6") which produce a color change when methyl bromide is present. The length of this color change indicates the methyl bromide concentration. A specific pump must be used with these tubes; both must be purchased from the same manufacturer. The detection limits (upper and lower) of these tubes vary with manufacturer and model.

Select the tube model which best fits your needs. The choice of detector tube is in part determined by the duration of exposure. If short-term access (less than one hour) is necessary, a detector tube that measures to 5 ppm would be adequate. To determine entry for longer times or to document that control methods are adequate, a detector tube that measures to a lower detection limit would be appropriate.

Manufacturer	Model Number	Tube Range	Comments
National Draeger	Methyl Bromide 5/b	5 to 50 ppm	1 tube, 5 strokes
(412) 787-8383	5/b w/ Activation Tube	0.8 to 8 ppm	2 tubes, 30 strokes
	Methyl Bromide 0.5/a	0.5 to 5 ppm	1 tube, 5 strokes
	Methyl Bromide 3/a	3 to 35 ppm	2 tubes, 5 strokes
Sensidyne	Methyl Bromide	2 to 10 ppm	2 tubes, 4 strokes
(800) 451-9444	No. 136	(0.5 ppm detection limit)	
	Methyl Bromide	1 to 18 ppm	2 tubes, 2 strokes
	No. 136LA	(0.2 ppm detection limit)	
Matheson-Kitagawa	Methyl Bromide	2.5 to 80 ppm	2 tubes, 1 stroke
(510) 793-2559	8014-157SB		
(714) 987-4611	Methyl Bromide	0.5 to 10 ppm	2 tubes, 1 stroke
	8014-157SC		
MSA	Methyl Bromide	2.5 to 90 ppm	2 tubes, 4 strokes
(800) MSA-2222	P/N 462135		
(800) 672-2222			

Subsection C.6.4

Recommended Permit Conditions for Tarped Potting Soil Fumigation

I. DEFINITIONS

A. **Application** includes treatment and aeration; it is complete when the tarped potting soil has been aerated.

B. **Application rate**, in pounds per cubic yard, is equal to the amount of methyl bromide in the formulated product.

C. **Application site** means the location where the fumigations take place. A property operator may have more than one location where potting soil fumigations take place. If these locations are not contiguous, then there would be two **application sites**. The application site designation may also be used in the restricted materials permit and for pesticide use reporting purposes.

D. **Buffer zone** is the area that must be maintained between the treated potting soil and those places where people conduct certain activities or practices. These activities and practices may not occur in the buffer zone for prescribed periods of time. For potting soil fumigations there are three types of buffer zones to be considered:

1. **Resident Buffer Zone** is the area surrounding the treated potting soil, during fumigation and aeration, outside of which people may "dwell." The Resident Buffer Zone is in effect until aeration is complete. See the definition: **dwell**.

2. **Worker Buffer Zone** is the area surrounding the treated potting soil, during fumigation and aeration, outside of which people may "work or occupy." The Worker Buffer Zone is in effect until aeration is complete, except for the first four hours of aeration (see **Aeration Buffer Zone**). See the definition: **work or occupy**.

3. **Aeration Buffer Zone** is the area surrounding the treated potting soil that begins when the tarps are cut or removed and lasts for the first four hours of aeration. This buffer zone is the same size as the Resident Buffer Zone and applies to **all** activities.

E. **Dwell** means that a person is able to or will occupy a structure for any or all parts of a 24-hour period. This includes, but is not limited to: homes, hospitals, convalescent homes, boarding schools, hotels, and apartment complexes.

F. **Frequency of applications** refers to the interval of time elapsed from the beginning of the application of methyl bromide to one potting soil pile to the beginning of the application of methyl bromide to another potting soil pile.

RECOMMENDED PERMIT CONDITIONS FOR TARPED POTTING SOIL FUMIGATION

I. DEFINITIONS (Continued)

G. **Gas confining** means a structure that has a non-porous roof and walls and all doors, side panels, and vents remain closed.

H. **Pesticide Handler** includes employees involved in fumigation, aeration activities, tarp repair, and tarp removal **prior** to the completion of aeration.

I. **Potting soil** is any combination of soil and/or soil-less media that is used for growing plants.

J. **Work or occupy** means that a person is able to or will be at a place for eight hours or less. This includes, but is not limited to: fields, offices, warehouses, stores, malls, factories, greenhouses, packing sheds, workshops, and recreational parks.

II. WORKER SAFETY REQUIREMENTS

A. Restricted Entry and Warning Sign Posting Requirements

1. The restricted entry interval begins with the introduction of the fumigant and ends 48 hours after the tarp is removed **and** measurements show 5 ppm or less methyl bromide in the air at the surface of the treated potting soil pile. The duration of the restricted entry interval depends upon whether the tarp is removed or cut prior to removal.

2. As a condition of the permit, warning signs shall be posted on/near the treated pile for the duration of the restricted entry interval.

RECOMMENDED PERMIT CONDITIONS FOR TARPED POTTING SOIL FUMIGATION

II. WORKER SAFETY REQUIREMENTS (Continued)

B. Pesticide Handler and Field Worker Requirements

1. The employer must maintain use records for **all** employees involved in application, aeration, tarp repair, and tarp removal activities. The record shall identify the person, work activity(ies), date(s), duration of handling, U.S. Environmental Protection Agency Registration Number, and brand name of the methyl bromide product handled.

2. The employer must maintain records of the air monitoring used to determine completeness of aeration. These records must include sampling method, date, time, sample location(s), and the level, in parts per million (ppm).

3. The employer must maintain these records at a central location for two years and make them available to the county agricultural commissioner upon request for review.

4. Employers shall ensure that all employees who are pesticide handlers are trained and protected. **Pesticide handlers** include all persons whose work activities involve application, tarp repair, and tarp removal.

C. Tarpaulin Repair

1. The tarpaulin is considered "application equipment" covered by 3 CCR section 6742(a) and is required to be kept in good repair by the **applicator** for the duration of the fumigation. For the purpose of this section, fumigation ends when the tarps are removed or cut for aeration. **The person or business performing methyl bromide fumigations is responsible for making any necessary repairs.**

2. Tarpaulin repair must be evaluated on a job-by-job basis. The decision should be based on hazard to the public or workers, size of the damaged area, timing of damage, and ease of repair.

3. The methyl bromide label requires **all persons wear a Self-Contained Breathing Apparatus** if entering an area where the concentration of methyl bromide is unknown or exceeds 5 ppm. This includes making repairs to the tarp that covers a potting soil pile under fumigation.

RECOMMENDED PERMIT CONDITIONS FOR TARPED POTTING SOIL FUMIGATION

II. WORKER SAFETY REQUIREMENTS (Continued)

D. Workers in Adjacent Sites

1. The property operator and/or pest control operator must be aware of adjacent sites where worker activity is likely until aeration is complete. They must ensure that the adjacent property operators are advised, prior to the fumigation, on how to comply with the **Worker Buffer Zone <u>and</u>** the **Aeration Buffer Zone**.

2. The property operator and/or pest control operator may give notice to adjoining property operators orally or in writing.

3. If entry occurs as the result of a failure to be aware of worker activity and subsequent failure to advise adjacent property operators to keep workers out, the operator of the property fumigated and the person performing pest control are in violation of the methyl bromide permit conditions.

III. APPLICATION REQUIREMENTS

A. All potting soil fumigations shall be conducted outdoors or in an enclosure that is not gas-confining.

B. A maximum of 400 cubic yards of potting soil, in one or more tarped piles, will be allowed to be fumigated and aerated at one location. All treated potting soil must be completely aerated before another potting soil fumigation may begin at the same location.

C. Maximum pile height is two feet tall. Potting soil may be fumigated in containers or raised structures as long as the depth of the potting soil does not exceed two feet.

D. For multiple potting soil fumigation:

1. Piles can be considered “isolated” when they are separated by at least 1,300 feet.

2. Piles can also be consider isolated when they are separated by at least 48 hours from the introduction **and** tarpaulin cutting of one pile to the introduction and tarpaulin cutting of another pile. For example, multiple piles can be considered isolated:

III. APPLICATION REQUIREMENTS (Continued)

i. When introduction takes place at 48-hour intervals (e.g., introduction of Pile 1 on October 1 and introduction of Pile 2 on October 3).
ii. When tarpaulin cutting takes place at 48-hour intervals (e.g., tarpaulin cutting of Pile 1 on October 1 and tarpaulin cutting of Pile 2 on October 3).
iii. When introduction and tarpaulin cutting occur alternately at 48-hour intervals (e.g., tarpaulin cutting of Pile 1 on October 1 and introduction of Pile 2 on October 3).

3. For isolated piles, calculate buffer zones independently for each pile.

E. For non-isolated piles, calculate buffer zones by aggregating the volume of the piles. This is the same procedure for calculating buffer zones for isolated and non-isolated field fumigations.

F. A maximum of 0.6 pounds of methyl bromide (active ingredient) per cubic yard is allowed.

G. The methyl bromide must be injected through perforated tubing that is anchored in place within the tarped potting soil piles. Follow the pesticide registrant's recommendation for the type of application tubing to be used.

H. The tarp shall be sealed to the ground with sand or water snakes.

I. All fittings, connections, and valves between the supply tank and the tarpaulin must be checked for methyl bromide leaks prior to fumigation. If cylinders are replaced during the fumigation process, the connections and valves must be checked for leaks prior to continuing the job.

J. Only the tarpaulins listed on the approved manufacturers list are to be used. The tarp used during the fumigation must meet or exceed the following standards for a “high barrier” tarp: a permeability factor of less than eight milliliters methyl bromide per hour per square meter per 1,000 ppm of methyl bromide under the tarp at 30 degrees Celsius. See the list of high barrier tarp suppliers. Polyethylene tarp of six-mil thickness or greater meets these criteria.

K. No other types of methyl bromide applications may be conducted at the same application site for 48 hours before, or 24 hours following, a tarped potting soil fumigation.

RECOMMENDED PERMIT CONDITIONS FOR TARPED POTTING SOIL FUMIGATION

IV. BUFFER ZONE DETERMINATION

A. A buffer zone is the area surrounding a fumigated potting soil pile outside of which certain activities or practices are allowed. The buffer zones are in effect until the potting soil is completely aerated. The size of the buffer zone will be determined by the proposed size of the potting soil pile, in cubic yards, and the application rate. The buffer zone distance may have to be modified for each pile due to the proximity to occupied structures, distance to adjacent workers, and proximity to other potting soil fumigations.

B. The buffer zone is partitioned into the Resident Buffer Zone, the Worker Buffer Zone, and the Aeration Buffer Zone. The size of the Resident Buffer Zone is based on the assumption that a person may "dwell" at a place for **24 hours.** The size of the Worker Buffer Zone is based on the assumption that people work or recreate at a place for **eight hours or less.** The Aeration Buffer Zone becomes effective at the time the tarp is removed or cut and lasts for four hours. It is the same size as the Resident Buffer Zone and is required due to the high levels of methyl bromide released when the tarp is removed or cut.

C. Transit through the Worker Buffer Zone by the permittee's employees is limited to infrequent and unavoidable trips. Routine or repeated transit through this buffer zone is prohibited.

D. Transit through (except on a public road), working in, or dwelling in the Aeration Buffer Zone is prohibited for the entire four hours. No one is allowed in this area until aeration is complete unless they are trained pesticide handlers facilitating aeration.

E. The buffer zones begin at the edges of the treated piles and extend in all directions regardless of buildings or property boundaries.

F. Procedures:

1. Determine the application rate. Use the highest application rate if more than one pile will be fumigated. If the application rate is not identical to the values listed in Table 1, then round up to the next highest value.

2. Determine the volume. If there will be more than one pile, use the total volume of all piles fumigated at the same time as at the same application site. If the volume is not identical to the values listed in Table 1, then round up to the next highest value.

3. Determine the Resident Buffer Zone by applying the highest application rate and total volume to Table 1.

IV. BUFFER ZONE DETERMINATION (Continued)

4. Determine the Worker Buffer Zone by dividing the application rate by three. Apply the adjusted application rate and total volume to Table 1. If the adjusted application rate is not identical to the values listed in Table 1, then round up to the next highest value.

5. The Aeration Buffer Zone is the same size as the Resident Buffer Zone and must be vacated by **all people** for the first four hours of aeration, starting when the tarp is first cut or removed.

G. Resident Buffer Zone Duration

1. To determine if the proposed Resident Buffer Zone includes places where people are living or staying, measure the distance between the edge of the tarped pile and the **physical structure,** not the property line associated with that structure.

2. People are not allowed to "dwell" within the Resident Buffer Zone. Residences within the buffer zone **must** be vacated while the buffer zone is in effect. This time period starts when the fumigation begins and ends when aeration is complete, at least 48 hours after tarp removal.

3. If the resident(s) are unable to vacate the building(s), then the property operator must decrease either the cubic yards to be treated or the rate of methyl bromide to be used to reduce the size of the buffer zone.

4. This requirement applies to all persons, including the property operator.

H. Worker Buffer Zone Duration

1. People will not be allowed to work in or occupy the Worker Buffer Zone. This time period starts when the fumigation begins and ends when aeration is complete, at least 48 hours after tarp removal. The beginning point of measurement shall be the tarped edge of the fumigated pile.

2. If there are occupied commercial buildings or workers within the proposed Worker Buffer Zone and the work sites cannot be vacated, then the application must either be rescheduled to coincide with the worker's day-off or the cubic yards to be treated and/or application rate must be decreased to reduce the size of the buffer zone.

IV. BUFFER ZONE DETERMINATION (Continued)

I. Aeration Buffer Zone Size and Duration

1. The Aeration Buffer Zone is the same size as the Resident Buffer Zone.

2. The Aeration Buffer Zone is in effect for the first four hours of aeration, which begins when the tarp is removed or cut. No one is allowed to work in, reside in, or transit this area for **any length of time.** This is required due to the large amounts of methyl bromide that can be released when the tarp is first disturbed.

RECOMMENDED PERMIT CONDITIONS FOR TARPED POTTING SOIL FUMIGATION

V. NOTICE OF INTENT MODIFICATION

A. The county agricultural commissioner must receive a Notice of Intent at least 24 hours prior to commencement of a methyl bromide fumigation of tarped potting soil piles. The Notice of Intent must indicate the day and hour the application is to commence.

B. Unless a waiver is granted by the county agricultural commissioner, fumigation of a tarped potting soil pile must not commence sooner than the starting time on the Notice of Intent. Nor must the fumigation commence later than 12 hours after the intended starting time submitted on the Notice of Intent. If the potting soil fumigation does not commence within this time frame, a new Notice of Intent must be submitted, but no 24-hour waiting period is required unless notified by the county agricultural commissioner.

C. For multiple potting soil piles to be fumigated sequentially, the county agricultural commissioner may allow one Notice of Intent with a "schedule" to be submitted in lieu of one Notice of Intent for each potting soil pile to be fumigated. The schedule must include a map and must specify the date and time each potting soil pile is intended to be fumigated.

D. The 24-hour Notice of Intent waiting period may be waived if the county agricultural commissioner determines:

   1. Effective pest control cannot be attained otherwise, or

   2. Approaching climatic conditions require the application to take place sooner, or

   3. Twenty-four hours are not necessary to adequately evaluate the intended application.

E. The reasons for granting each waiver must be documented and a record maintained by the county agricultural commissioner.

F. The operator of the property to be treated and the person performing pest control (if they are different) must be aware of adjacent sites where there is a reasonable possibility of **work activity** occurring while the Worker Buffer Zone and Aeration Buffer Zone are in effect, and must ensure that operators of those adjacent properties are advised to keep **workers** out of those areas during that period of time.

RECOMMENDED PERMIT CONDITIONS FOR TARPED POTTING SOIL FUMIGATION

VI. TARPAULIN REMOVAL

A. Aeration shall be commenced during daylight hours, not at night.

B. A Self-Contained Breathing Apparatus shall be used to commence aeration, which includes removing or cutting the tarp, unless this activity can be performed from outside of the aeration zone.

C. The tarp may be removed no sooner than three days (72 hours) after the potting soil pile was fumigated.

D. If the tarps are cut, rather than removed completely, they must be allowed to aerate for a minimum of 24 hours following cutting. Workers may then be allowed to remove the cut tarps without using a Self-Contained Breathing Apparatus.

E. After the tarps have been removed, regardless of method, the soil pile must be allowed to aerate for an additional two days (48 hours) before workers may disturb the pile. At that time, if spot measurement shows less than 5 ppm, the soil can be handled by the workers. If the measurement is above 5 ppm, aeration shall continue until the level of methyl bromide is below 5 ppm.

   The measurement(s) should be taken as close as possible to the surface of the treated potting soil pile.

VII. LIST OF MANUFACTURERS OF HIGH BARRIER TARPAULINS

The current list of approved tarpaulins is available at DPR's web site at:
http://www.cdpr.ca.gov/docs/dprdocs/methbrom/fum_regs.htm

Under the section, **Methyl Bromide**, select **Approved tarpaulins**.

RECOMMENDED PERMIT CONDITIONS FOR TARPED POTTING SOIL FUMIGATION

TABLE 1. Buffer Zones (feet) for Potting Soil Fumigations

Volume		Application Rate*					
cubic yards	cubic feet	0.1 lbs/yd^3 0.37 lbs/100 ft^3 3.7 lbs/1000 ft^3	0.2 lbs/yd^3 0.74 lbs/100 ft^3 7.4 lbs/1000 ft^3	0.3 lbs/yd^3 1.1 lbs/100 ft^3 11 lbs/1000 ft^3	0.4 lbs/yd^3 1.5 lbs/100 ft^3 15 lbs/1000 ft^3	0.5 lbs/yd^3 1.9 lbs/100 ft^3 19 lbs/1000 ft^3	0.6 lbs/yd^3 2.2 lbs/100 ft^3 22 lbs/1000 ft^3
20	540	30	30	30	30	30	30
30	810	30	30	30	30	30	40
40	1080	30	30	30	30	40	60
60	1620	30	30	30	45	70	95
80	2160	30	30	35	65	95	120
100	2700	30	30	45	85	115	140
150	4050	30	30	75	120	155	190
200	5400	30	40	100	150	190	230
250	6750	30	50	120	175	225	265
300	8100	30	65	140	200	250	300
350	9450	35	80	155	220	280	330
400	10800	40	100	175	245	300	355

* Application Rate Units:

lbs/yd^3 = pounds per cubic yard
lbs/100 ft^3 = pounds per 100 cubic feet
lbs/1000 ft^3 = pounds per 1000 cubic feet

Section C.7

Recommended Permit Conditions for Rice Pesticides

Introduction

This document provides recommended permit conditions for pesticide applications to rice.

Attachments

This Appendix contains the following topics:

Topic	See Subsection…
Instructions to County Agricultural Commissioners on Rice Pesticide Permit Issuance	C.7.1
General Water-Holding	C.7.2
Methyl Parathion	C.7.3
Molinate	C.7.4
Phenoxy/Dicamba Herbicides	C.7.5
Thiobencarb	C.7.6

Subsection C.7.1

Instructions to County Agricultural Commissioners on Rice Pesticide Permit Issuance

Introduction

The Department of Pesticide Regulation (DPR), in cooperation with the Central Valley Regional Water Quality Control Board (CVRWQCB), developed recommended permit conditions to meet water quality management objectives for Malathion, Methyl Parathion, Molinate, and Thiobencarb. These conditions reflect management practices required by current Board Resolution. DPR and CVRWQCB believe that use of these permit conditions will meet water quality management objectives for these rice pesticides.

Approved resolution

The Central Valley Regional Water Quality Control Board (CVRWQCB) approved resolution is available for review at: http://www.waterboards.ca.gov/centralvalley/adopted_orders/index.html

Rice Pesticide Water Monitoring and Annual Reporting

CRC responsibility

The rice industry, via the California Rice Commission (CRC), will be responsible for leadership in water monitoring, annual reporting to the CVRWQCB, and coordinating the participation of all program stakeholders.

- The rice industry is ultimately responsible for meeting water quality objectives.
- DPR, as a co-regulator with the water boards, will continue to use its authority to regulate the sales and use of pesticides to address water quality issues involving pesticides. DPR will continue to actively participate with CVRWQCB and the rice industry staff to address rice pesticide issues.

Continued on next page

Seepage Mitigation Requirements

Seepage defined

For purposes of mitigating seepage in rice production:

- Seepage is lateral movement of irrigation water through a rice field levee or border to an area outside the normally flooded production area. Seepage can occur through levees into adjacent dry fields or into adjacent drains and canals.

Seepage documentation

DPR requests that county agricultural commissioners (CACs) continue monitoring for seepage when inspecting for water-holding compliance by:

- Checking for seepage, or collection of seepage, that occurs through the outer borders of a field or the bottom border located at the lowest part of the field.
- Using the water-holding inspection logs to document seepage observations. The Pesticide Use Monitoring Inspection Form (PR-ENF-104) may also be used to document seepage observations. Indicate "water-hold inspection" on the blank line under "application inspection."
- Document in the "Remarks" section on either form: Seepage flow less than five gallons per minute, or seepage flow more than five gallons per minute.

Enforcement action

Any visible seepage moving offsite during the water-holding period that drains into the waters of the State is considered an early release and is a water-holding violation. An enforcement action should be taken in accordance with 3 CCR section 6128.

Reporting

Please report all "completed" water-holding enforcement actions to the CVRWQCB within 30 days after enforcement action is completed. Send enforcement actions to:

ATTN: Rice Pesticide Program
Central Valley Regional Water Quality Control Board
Central Valley Region
11020 Sun Center Drive #200
Rancho Cordova, California 95670-6114

Continued on next page

Brochure

Please continue to distribute the brochure, *Seepage Water Management, Voluntary Guidelines for Good Stewardship in Rice Production,* Publication 21568, to growers at the time of permit issuance.

Drift Minimization Requirements

Mitigation measures

- DPR will provide "focused" oversight inspection of thiobencarb aerial applications to monitor thiobencarb drift mitigation requirements.
- DPR recommends all rice pesticide permits be conditioned with *General Drift Minimization* restrictions.

Thiobencarb Drift Mitigation Requirements

Mandatory preseason thiobencarb stewardship training (applies to Sacramento Valley counties only)

- Restricted material permits for the use of thiobencarb should not be issued to growers who have not received CRC certification that they have attended a Thiobencarb Stewardship Meeting.
- The CAC may certify a grower that did not attend a Thiobencarb Stewardship Meeting by having them view a video of the preseason Thiobencarb Stewardship Meeting.
- DPR will provide "focused" oversight inspection of thiobencarb aerial applications to monitor thiobencarb drift mitigation requirements.

Continued on next page

General Information

Malathion water management recommendations

CVRWQCB has approved a water management practice for malathion applied to rice that will help meet water quality performance goals for malathion in surface water. Malathion is currently not a restricted material and not subject to permit conditions. However, it is important that growers comply with the following water management practice:

- **All water from fields treated with pesticides containing malathion should be retained on the site of application or contained within a tailwater recovery system, or other system, adequate to prevent discharge to waters of the State for at least four days following application.**

Storm Event Work Group

The Communication Plan developed by the Storm Event Work Group will be utilized in the event of a severe storm occurrence. The Storm Event Work Group will continue to meet as needed. Currently, the work group is comprised of staff from the Regional Water Board, DPR, University of California, a reclamation district representative, CACs, and the rice industry. The California Rice Commission will take the lead in facilitating this group.

One-page summaries

Table A summarizes the PPE required by Ordram® 15-G, Ordram® 8-E PPE labeling, and DPR's recommended permit conditions for molinate. Table B summarizes the recommended water-holding permit conditions for molinate and thiobencarb. The summaries can be used as quick references. Please refer to the specific permit conditions and pesticide labeling for a complete explanation of the requirements.

Topic	See Table
Summary of Ordram 15-GM and 8-E Labeling Requirements For Personal Protective Equipment (Includes Ordram Permit Condition Requirements)	A
Rice Pesticides Water Management Requirements Summary (Water-holding permit conditions for malathion, methyl parathion, molinate, and thiobencarb)	B

Continued on next page

Emergency release forms

Form A is used for an emergency release request. Form B is used for reporting the emergency release. These DPR-suggested forms may be reproduced under county letterhead.

Topic	See Form
Rice Pesticides Water Management Requirements, Emergency Release Request Form	Form A
Rice Pesticides Water Management Requirements, Emergency Release Report Form	Form B

Continued on next page

Summary of Ordram 15-GM and 8-E Labeling Requirements For Personal Protective Equipment

(Includes Ordram Permit Condition Requirements)

	Ordram 15-GM						Ordram 8-E		
Personal Protective Equipment	Loaders **OR** Any persons having contact w/or handling full, partial or empty bags	Flaggers NOT working in an enclosed cab	Flaggers working in an enclosed Cab	Aerial & Ground Applicator Handlers **NOT** involved in M/L	Ground Applicator **NOT** involved in M/L; **NOT** having contact w/ bags and **NOT** working in an enclosed cab.	Ground Applicator **NOT** involved in M/L; **NOT** having contact w/ bags & working in an enclosed cab	Mixers & Loaders	Ground Applicators **NOT** working in enclosed cab	Ground Applicators **NOT** involved in M/L & working in a enclosed cab
Long sleeve shirt & long pants **UNDER** disposable coverall **OR,** Full body cloth charcoal suit **UNDER** cotton coverall or chemical-resistant coverall **OR,** Long sleeve shirt & long pants **UNDER** chemical resistant coverall	✓	✓	✓		**P**		✓	**P**	
Coverall				✓	✓	✓		✓	✓
Shoes plus socks				✓	✓	✓	✓	✓	✓
Respirator (½ mask)	✓	✓	✓			**P**			**P**
Full Face Respirator	**P** (1)				**P**		**P**	**P**	
Protective Eye Wear		**P**	**P**						
Chemical-resistant gloves	✓	✓	✓		**P**		✓	**P**	
Chemical-resistant foot wear	✓	✓	✓		**P**		✓	**P**	
Tightly woven head covering	**P**	**P**			**P**		**P**	**P**	
Chemical-resistant apron							✓ (2)		
Pilots involved in loading or equiv. activities shall wear the same PPE as loaders				✓					
Handler PPE may not be reduced or modified as specified in [40CFR 170.240(d)(4-6)]			✓			✓			✓

(1) When conflict occurs use stricter requirement
(2) If dry disconnects are not used for loading Ordram 8-E, a chemical resistant apron must be worn.
P= Required by Ordram Permit Conditions

Table B

Rice Pesticides Water Management Requirements Summary

Water must be held for the indicated number of 24 hour periods on site or containment before release into State waters	**Ordram 15-GM**	**Ordram 8-E**	**Bolero 15-G**	**Abolish 8EC**	**M. Parathion**	**Malathion**
	Hold	Hold	Hold	Hold	Hold	Hold
Single field	28	4	30	19	24	4 (d)
Single field Southern area only (a)			19			
Release into tailwater recovery system or pond onto fallow field [Except Southern area (a)]	28	4	14 (b)	14 (b)		
Multi-growers & district release onto closed recirculating systems	8	4	6	6		
Multi-growers & district release onto closed recirculating systems in the Southern area (a)			6			
Release from closed recirculating system			19	19		
Release into area that discharge negligible amount into perennial streams	12	4	19	6 (c)		
Pre-flood application – Release onto tailwater recovery system etc.	4	4				
Emergency release of tailwater	11		19	19		
Commissioner verifies the hydrologic isolation of the fields			6	6		

a – Sacramento/San Joaquin Valley defined as: South of the line defined by Roads E10 and 116 in Yolo County and the American River in Sacramento County.
b – Thiobencarb permit condition allows Bolero 15G label hold period of 14 days.
c – See hydrologic isolated fields.
d – Voluntary hold.

FORM A

RICE PESTICIDES WATER MANAGEMENT REQUIREMENTS, Emergency Release Request Form

☐ Molinate ☐ Thiobencarb

Grower:_____Permit No.:_____

Address:_____Zip:_____

Field Location:_____Site No.:_____

Chemical applied:_____ Chemical applied:_____

Rate of application:_____ Rate of application:_____

Date of application:_____ Date of application:_____

Average water depth
at time of application:_____ Average water depth
at time of application:_____

Starting date of emergency release:_____

Acres treated in field:_____ Laser leveled: Yes_____No _____

Type of irrigation system: Flow through_____Recycle_____Static_____Other_____

Date flooding began:_____ No. of days it takes to fill field:_____

Describe problem that led to emergency release:_____

_____

_____

Steps that can be taken to prevent emergency releases from this field in future years:_____

_____

_____

Recommendation by (attached):_____

Applications by:_____

Grower's signature:_____Date:_____

Approved by:_____
Agricultural Biologist

FORM B

RICE PESTICIDES WATER MANAGEMENT REQUIREMENTS, Emergency Release Report Form

☐ Molinate ☐ Thiobencarb

Grower:_____ Permit No.:_____

Address:_____ Zip:_____

Field Location:_____ Site No.:_____

Beginning date of release:_____ Ending date:_____

The grower must determine the amount of water discharged during the emergency release period. To do this, measure the width of each weir opened to allow the discharge. Then, on a daily basis, measure the height of water flowing over each weir. Record all information in the table below.

Weir 1		Weir 2		Weir 3	
Width:		Width:		Width:	
Date	Height of water	Date	Height of water	Date	Height of water

Subsection C.7.2

General Water-Holding

I. The following seepage control requirements apply to all rice pesticides having mandatory water-holding requirements such as molinate, thiobencarb, etc. Non-compliance with seepage requirements is considered a water-holding violation.

   A. Rice pesticides, such as molinate and thiobencarb, shall not be applied to rice fields exhibiting visible water seepage that moves offsite into drains that are considered state waters.
   B. Borders surrounding each rice field shall be compacted before water is allowed to fill the field; the degree of compaction shall be sufficient to prevent water from seeping through the border. For example, compaction may be achieved by driving the tires or tracks of a tractor, or other heavy vehicle, on one side of the border.
   C. This requirement applies to new or reworked existing borders for the current rice season.
   D. A common border between two existing rice fields does not need to be compacted.

Subsection C.7.3

Methyl Parathion

Drift mitigation	No aerial application of liquid formulations of methyl parathion shall be made to rice within 300 feet of any agricultural drain unless there is a continuous positive air flow away from the drain.
Water management	Water shall not be discharged to waters of the State from sites treated with methyl parathion for at least 24 days following application.

Subsection C.7.4

Molinate

Water Management

I. Except as listed below, all water from fields treated with products containing molinate must be retained on the site of application for at least 28 days following application. When drainage begins, discharge must not exceed two inches of water over a drain box weir for seven additional days. Unregulated discharges from these fields may then start after 35 days.

For water contained within a tailwater recovery system, ponded on fallow land, or contained in other systems adequate to prevent discharge, the following applies:

1. If the system is under the control of one permittee, water may be discharged from the application site in a manner consistent with product labeling (four-day water-hold period).
2. If the system includes drainage from more than one permittee, water must be retained on the application site for at least eight days before water may be discharged from the application site into the system.
3. If water is from acreage within the bounds of areas that discharge "negligible amounts" of rice field drainage into perennial streams until fields are drained for harvest, all water on fields treated with molinate must be retained on the treated acreage for 12 days following application.
4. If water is from acreage treated with a preflood application of molinate, the label restrictions apply (four-day water-hold period).

II. Emergency release requirements (Weather-related)

1. The county agricultural commissioner may authorize the emergency release of tailwater after a minimum 11-day water-hold period, following a review of a written request (Form A), which clearly demonstrates the crop is suffering because of the water management requirements.
2. All water management requirements must be followed that are associated with other pesticides that may have been applied to the site. Additionally, the requester must describe preventative action that would avoid the need for future emergency releases.
3. Under an emergency release variance, tailwater may be released only to the extent necessary to mitigate the documented problem.
4. Those issued an emergency release must submit to the county agricultural commissioner a report (Form B) indicating the time and duration of the emergency release and data that can be used to calculate the total volume of water released during the emergency release.
5. Emergency release will only be granted for reasons related to rainfall, high winds, or other extreme weather conditions that cannot be moderated with management practices.

Continued on next page

III. Emergency release requirements (Salinity damage)

1. The county agricultural commissioner may authorize the emergency release of field water after a minimum 11-day water-hold period, following the review of a written application that demonstrates salinity levels are damaging to the crop.
2. Applicants for such emergency releases must provide the following information:
   (a) All information indicated on the emergency release request form (Form A), including a description of the severity and extent of salinity damage.
   (b) Electrical conductivity (EC) measurements, expressed as deciSiemens per meter (dS/m) or microSiemens per centimeter (μS/cm), from field water in each paddy suspected of having salinity problems. To most effectively demonstrate salinity problems, measurements should be taken wherever salinity problems are evident.
   (c) The instrument (make and model) used to determine EC measurements. The instrument must have a sensitivity range that accommodates the full range of EC values in intake and paddy water (usually a range of 0-5.0 dS/m or 0-5,000 μS/cm should be sufficient) and should have a resolution of not less than five percent. The instrument must be calibrated according to the manufacturer's instructions. The applicant must specify the method of temperature compensation (i.e., automatic, conversion table).
   (d) Who made the EC measurements.
   (e) The source of irrigation water (e.g., district supply canal, drainage canal, well, etc.).
3. An emergency release may be granted only if all of the following conditions are satisfied:
   (a) All required information is provided.
   (b) Water management requirements for rice pesticides, other than molinate, are satisfied.
   (c) EC of paddy water exceeds 2.0 dS/m or 2,000 μS/cm.
   (d) The county agricultural commissioner or his/her staff inspects the site.
   (e) Water may be released from paddies where EC measurements exceed 2.0 dS/m or 2,000 μS/cm and from paddies down gradient from such paddies within the same field. Water shall only be released in an amount necessary to mitigate the salinity problem.
   (f) Those issued an emergency release must submit to the county agricultural commissioner a report (Form B) indicating the time and duration of the emergency release and data that can be used to calculate the total volume of water released during the emergency release.

Continued on next page

Worker Safety

The following are the Worker Safety Permit Conditions for Molinate (Ordram®).

I. General Requirements

A. Personal Protective Equipment

1. Coveralls are specifically required by these molinate (Ordram®) permit conditions as:
   (a) Personal protective equipment (PPE) for handling activities in addition to the PPE requirements on the Ordram® 15-GM, and Ordram® 8-E labels.
   (b) These permit conditions specify that references to a long-sleeved shirt and long pants herein, and on the Ordram® 15-GM, and Ordram® 8-E product labels, shall be interpreted to mean garments meeting the definition of coveralls.

2. Protective apparel (coverall or garment) combinations:
   (a) A coverall or garments defined as a "coverall" in 3 CCR section 6000, UNDER a disposable coverall made of a synthetic material capable of excluding particles 45 microns or larger in diameter, such as Tyvek Q®[1], KLEENGUARD®[1], polypropylene, or other brands of coverall material approved by DPR, Worker Health and Safety Branch; **OR**
   (b) A full-body cloth suit (long-sleeved and long-legged) impregnated with activated charcoal UNDER a coverall or garments defined as a "coverall" in 3 CCR section 6000; **OR**
   (c) A coverall or garments defined as a "coverall" in 3 CCR section 6000, UNDER a chemical resistant coverall as specified in 3 CCR section 6738(g)(1). Examples of a chemical resistant coverall are rain suits, Tyvek QC®[1], Tyvek® laminated with SARANEX®[1], polypropylene laminated with polyethylene, or other brands of coverall approved as chemical resistant by the DPR, Worker Health and Safety Branch.

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[1] Use of trade or brand names does not imply endorsement by DPR. Trademark ownership: Gore-Tex, W.L. Gore & Associates; Tyvek, E.I. duPont de Nemours; KLEENGUARD, Kimberly-Clark; SARANEX, Dow Chemical Company.

B. Granular Formulation: Requirements for **aerial or ground** application handlers who **will come into contact with** Ordram® 15-GM product.

1. Bag Handling Requirements
   (a) No person shall load more than 152,000 pounds of Ordram® 15-GM per season.
   (b) The employer shall maintain a record of persons loading Ordram® 15-GM and make these records available for inspection by the county agricultural commissioner or the Director, upon request. Records shall be kept as follows:
      (1) Name of person(s).
      (2) The date and total pounds of Ordram® 15-GM loaded per day.

2. Loaders or any persons having contact with or handling full, partial, or empty Ordram® 15-GM bags shall wear the following PPE (apparel and devices) in addition to PPE required by the Ordram® 15-GM labeling:
   (a) A full-face respirator with either cartridge(s) approved for organic vapors with a dusts/mists prefilter approved for pesticides, or a canister approved for pesticides approved by the National Institute for Occupational Safety and Health (NIOSH) and/or Mine Safety and Health Administration (MSHA).
   (b) A tightly woven head covering.

3. Flaggers **NOT working in an enclosed cab**/vehicle shall wear the following PPE (apparel and devices) in addition to PPE required by the Ordram® 15-GM labeling:
   (a) Protective eyewear (safety glasses).
   [Reference: *3 CCR section 6738(b)(1)(E)*]
   (b) A tightly woven head covering.

4. Flaggers **working in an enclosed cab**/vehicle shall wear the following PPE (apparel and devices) in addition to PPE required by the Ordram® 15-GM labeling:
   (a) Protective eyewear.
   (b) The PPE required above in this section for flaggers shall be worn in addition to PPE required by the Ordram® 15-GM labeling when performing flagging activities outside of the enclosed cab/vehicle.
   [Reference: *3 CCR section 6738(i)(7)*]

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C. Granular Formulation: Requirements for **aerial or ground** application handlers **not involved** in mixing or loading Ordram® 15-GM product.

1. Pilots shall wear the following PPE (apparel and devices) in addition to PPE required by the Ordram® 15-GM labeling:
   (a) Pilots involved in loading or equivalent activities (load leveling, washing windshields, handling the bucket sock, etc.) where they may come into contact with Ordram® 15-GM, shall wear the same PPE (apparel and devices) required for loaders in section I B.2 of these molinate (Ordram®) worker safety permit conditions.

2. Ground applicators **NOT** involved in mixing or loading Ordram® 15-GM, **NOT** having contact with or handling full, partial, or empty Ordram® 10-G and/or Ordram® 15-GM bags, and **NOT working in an enclosed cab** shall wear the following PPE (apparel and devices) in addition to PPE required by the Ordram® 15-GM labeling:
   (a) A coverall or garments defined as a "coverall" in 3 CCR section 6000, UNDER either a cloth coverall or a disposable coverall made of synthetic materials capable of excluding particles 45 microns or larger in diameter. Examples of these are Tyvek Q®[1], KLEENGUARD®[1], polypropylene, or other brands of coverall approved by the DPR, Worker Health and Safety Branch.
   (b) A NIOSH and/or MSHA approved full-face respirator with either cartridges(s) approved for organic vapors with a dusts/mists prefilter approved for pesticides or a canister approved for pesticides.
   (b) A tightly woven head covering.

3. Ground applicators **NOT** involved in mixing or loading Ordram® 15-GM, **NOT** having contact with or handling full, partial, or empty Ordram® 15-GM bags, and **working in an enclosed cab** shall wear the following PPE (apparel and devices) in addition to PPE required by the Ordram® 15-GM labeling:
   (a) A NIOSH and/or MSHA approved half-mask respirator with either cartridge(s) approved for organic vapors with a dusts/mists prefilter approved for pesticides or a canister approved for pesticides must be worn.
   (b) The PPE (apparel and devices) required above in this section for ground applicators and PPE required by the Ordram® GM labeling shall be worn if it is necessary to exit the enclosed cab and contact pesticide treated or contaminated surfaces.

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D. Liquid Formulation: Handling Requirements

1. Mixers and loaders who **will come in contact with** Ordram® 8-E product shall wear the following PPE (apparel and devices) in addition to PPE required by the Ordram® 15-GM labeling:
   (a) A NIOSH and/or MSHA approved full-face respirator with either cartridge(s) approved for organic vapors with a prefilter approved for pesticides or a canister approved for pesticides.
   (b) A tightly woven head covering.

2. Applicators who **will come in contact with** Ordram® 8-E product shall wear the following PPE (apparel and devices) in addition to PPE required by the Ordram® 15-GM labeling:
   (a) A coverall, or garments defined as a "coverall" in 3 CCR section 6000, UNDER a chemical resistant coverall as specified in 3 CCR section 6738(g)(1). Examples of a chemical resistant coverall are rain suits, Tyvek QC®[1], Tyvek®[1] laminated with SARANEX®[1], polypropylene laminated with polyethylene, or other brands of coverall approved as chemical resistant by the DPR, Worker Health and Safety Branch.
   (a) A NIOSH and/or MSHA approved full-face respirator with either cartridge(s) approved for organic vapors with a prefilter approved for pesticides or a canister approved for pesticides.
   (b) A tightly woven head covering.

3. Applicators **NOT** involved in mixing or loading Ordram® 8-E and **working in an enclosed cab** shall wear the following PPE (apparel and devices) in addition to PPE required by the Ordram® 8-E labeling:
   (a) A NIOSH and/or MSHA approved half-mask respirator with either cartridge(s) approved for organic vapors with a prefilter approved for pesticides or a canister approved for pesticides must be worn unless the applicator is working in an enclosed cab acceptable for respiratory protection.

Subsection C.7.5

Phenoxy/Dicamba Herbicides

I. The following requirements apply to Dicamba; 2,4-dichlorophenoxyacetic acid; 2,4-dichlorophenoxybutric acid; 2,4-dichlorophenoxypropionic acid; and 2-methyl-4-chlorophenoxyacetic acid (MCPA) herbicides when used on rice grown in the following areas of the Sacramento Valley:

A. The counties of Butte, Colusa, Glenn, Placer, Sutter, Yolo, Yuba; the portion of Sacramento County situated north of Highway 80; and the portion of Tehama County situated west of the Sacramento River.

B. No herbicide in an ester form shall be applied, unless expressly authorized by a permit issued by the country agricultural commissioner.

C. Restrictions on types of application.

1. Fixed-wing aircraft and helicopter applications are prohibited April 1 through October 15.

2. Ground equipment applications made between April 1 through October 15 shall be made in accordance with the following requirements:
   (a) Unless expressly authorized by permit, no application shall be made within two miles of any cultivated commercial cotton, grape, or pistachio planting.
   (b) Each operating nozzle shall produce a droplet size, in accordance with the manufacturers' specifications, not less than 500 microns volume median diameter (Dv0.5) with ten percent of the diameter by volume (Dv0.1) not less than 200 microns.

Subsection C.7.6

Thiobencarb

Drift Minimization

I. The use of Bolero 10G formulation is prohibited in the Sacramento Valley rice growing counties of Butte, Colusa, Glenn, Placer, Sacramento, Sutter, Tehama, Yolo, and Yuba.

II. No aerial applications shall be made or continued within ½ mile of the Sacramento or Feather Rivers in the Sacramento Valley rice growing counties of Butte, Colusa, Glenn, Placer, Sacramento, Sutter, Tehama, Yolo, and Yuba unless there is a continuous positive airflow away from the river.

III. In the Sacramento Valley rice growing counties of Butte, Colusa, Glenn, Placer, Sacramento, Sutter, Tehama, Yolo, and Yuba, no aerial application shall be made or continued within ½ mile of the Sacramento or Feather Rivers when the wind speed exceeds seven miles per hour.

IV. In Sacramento and Yolo Counties, no aerial applications shall be made or continued within ¼ mile of the Sacramento River unless they are made under the direct supervision of the county agricultural commissioner's representative.

V. In Sacramento and Yolo Counties, the maximum acres treated by air each day within ¼ mile of the Sacramento River shall not exceed 33 percent of the average acres treated per day by air within this area in each county during 2002.

Water Management

I. The following water holding requirements apply to rice fields treated with thiobencarb in the Sacramento Valley (north of the line defined by Roads E10 and 116 in Yolo County and the American River in Sacramento County), except those treated with Abolish® 8EC:

   A. Except as listed below, all water on treated fields must be retained on the treated fields for at least 30 days following application. When drainage begins, discharge must not exceed two inches of water over a drain box weir for seven additional days. Unregulated discharges from these fields may then begin after 37 days.

Continued on next page

1. When water is contained within a tailwater recovery system, ponded on fallow land, or contained in other systems appropriate for preventing discharge, the water must be retained in the system for 19 days, unless:
   (a) The system is under the control of one permittee, then water may be discharged from the application site in a manner consistent with product labeling (14-day water hold).
   (b) The system includes drainage from more than one permittee, then water must be retained on the site of application for six days before being discharged from the application site into the system.
   (c) Water is on fields within the bounds of areas that discharge negligible amounts of rice field drainage into perennial streams until fields are drained for harvest. Water-hold may be reduced to six days if the commissioner evaluates such sites and verifies the hydrologic isolation of the fields.

II. Rice fields treated with thiobencarb in the Sacramento/San Joaquin Valley (south of the line defined by Roads E10 and 116 in Yolo County and the American River in Sacramento County), except those treated with Abolish® 8EC:

A. Except as listed below, all water on treated fields must be retained on the treated fields for at least 19 days following application. When drainage begins, water discharge must not exceed two inches of water over a drain box weir for an additional seven days. Unregulated discharges from these fields may begin after 26 days.

1. When water is contained within a tailwater recovery system, ponded on fallow land, or contained in other systems appropriate for preventing discharge, the system may discharge 19 days following the last application of thiobencarb within the system unless:
   (a) The system is under the control of one permittee, then water may be discharged from the application site in a manner consistent with product labeling (14-day water-hold period).
   (b) The system includes drainage from more than one permittee, then water must be retained on the site of application for six days before discharged from the application site into the system.
   (c) Water is on fields within the bounds of areas that discharge negligible amounts of rice field drainage into perennial streams until fields are drained for harvest. Water-hold may be reduced to six days, if the commissioner evaluates such sites and verifies the hydrologic isolation of the fields.

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III. All areas, fields treated with Abolish® 8EC:

A. Except as listed below, all water on treated fields must be retained on the treated fields for at least 19 days following application. When drainage begins, water discharge must be released at a volume not to exceed two inches of water over a drain box weir for an additional seven days. Unregulated discharges from these fields may begin after 26 days.

1. For water contained within a tailwater recovery system, ponded on fallow land, or contained in other systems appropriate for preventing discharge, the system may discharge 19 days following the last application within the system unless:
   (a) The system is under the control of one permittee, then water may be discharged from the application site in a manner consistent with product labeling (14-day water-hold period).
   (b) The system includes drainage from more than one permittee, then water must be retained on the site of application for six days before discharged from the application site into the system.
   (c) Water is on fields within the bounds of areas that discharge negligible amounts of rice field drainage into perennial streams until fields are drained for harvest, then water-hold may be reduced to six days if the commissioner evaluates such sites and verifies the hydrologic isolation of the fields.

IV. Emergency release requirements (Salinity damage):

The county agricultural commissioner may authorize the emergency release of field water after a minimum 19-day water-hold period after the last thiobencarb application, following the review of a written application that demonstrates salinity levels are damaging to the crop.

A. Applicants for such emergency releases must provide the following information:
   1. All information indicated on the emergency release request (Form A), including a description of the severity and extent of salinity damage.
   2. Electrical conductivity (EC) measurements, expressed as deciSiemens per meter (dS/m) or microSiemens per centimeter (μS/cm), from field water in each paddy suspected of having salinity problems. To most effectively demonstrate salinity problems, measurements should be taken wherever salinity problems are evident.

Continued on next page

3. The instrument (make and model) used to determine EC measurements. The instrument must have a sensitivity range that accommodates the full range of EC values in intake and paddy water (usually a range of 0-5.0 dS/m or 0-5,000 μS/cm should be sufficient) and should have a resolution of not less than five percent. The instrument must be calibrated according to the manufacturer's instructions. The applicant must specify the method of temperature compensation (i.e., automatic, conversion table).
4. Who made the EC measurements.
5. The source of irrigation water (e.g., district supply canal, drainage canal, well, etc.).

B. An emergency release may be granted only if all of the following conditions are satisfied:
   1. All required information is provided.
   2. Water management requirements for rice pesticides other than thiobencarb are satisfied.
   3. EC of paddy water exceeds 2.0 dS/m or 2,000 μS/cm.
   4. The county agricultural commissioner or his/her staff inspects the site.

C. Water may be released from paddies where EC measurements exceed 2.0 dS/m or 2,000 μS/cm and from paddies down gradient from such paddies within the same field. Water shall only be released in an amount necessary to mitigate the salinity problem.

D. Those issued an emergency release must submit to the county agricultural commissioner, a report (Form B) indicating the time and duration of the emergency release and data that can be used to calculate the total amount of water released during the emergency release.

Section C.8

Recommended Permit Conditions for S, S, S-tributyl phosphorotrithioate (DEF, tribufos)

Introduction	Approved tribufos labeling states, "(Tribufos) may not be applied within seven days of harvest." The Department of Pesticide Regulation considers this enforceable pre harvest interval language. Any harvesting taking place within seven days of the application is a violation of Food and Agricultural Code section 12973 (use in conflict with labeling).
Permit condition language	No employee shall be directed or allowed to conduct any activities that may involve human contact with foliage, within the treated area, until seven days after an application of tribufos.

Appendix D

Environmental Impact Report Functional Equivalency

Overview

Introduction

California has had a comprehensive pesticide regulatory program for decades, managed at the State level first by the California Department of Food and Agriculture, and since 1991, by the Department of Pesticide Regulation (DPR). County agricultural commissioners (CACs) handle local pesticide enforcement in each of California's 58 counties.

In this chapter

This chapter contains the following topics:

Topic	See Section…
History of the Pesticide Regulatory Program's Environmental Impact Report Functional Equivalency	D.1
How Requirements of Public Resources Code Section 21080.5 Are Addressed by the Program	D.2
Specific Procedural Requirements of Public Resources Code Section 21080.5	D.3
Scope of Certified Activities	D.4

Section D.1

History of the Pesticide Regulatory Program's Environmental Impact Report Functional Equivalency

California Environmental Quality Act

The California Environmental Quality Act (CEQA) was adopted in 1970 and is the State's principal environmental law. It mandates environmental impact review of development projects in California, and applies generally to activities of all State and local agencies and to those private activities that the agencies finance or regulate. CEQA requires, among other things, that an Environmental Impact Report (EIR) be developed that discloses the potential environmental impacts of a project.

The EIR process must consider alternatives; develop mitigation to avoid adverse impacts; and is subject to public review and comment before a permit is issued for a project that might impact environmental quality.

Attorney General opinion

In 1976, the California Attorney General issued a formal opinion (SO 75/16)[1] that the State's pesticide regulatory program was subject to CEQA. This meant that an EIR would have to be prepared before registering any of the several hundred new pesticide products that come into the market each year. Of even greater significance, it meant that an EIR would have to be prepared before approving any of the several thousand restricted material permits issued annually by the county agricultural commissioners (CACs).

The California Legislature immediately adopted a moratorium on the application of CEQA to pesticide regulatory programs in order to provide State pesticide regulators with sufficient time to make necessary adjustments.

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[1] Opinion of Evelle J. Younger, California Attorney General, No. SO 75/16, May 4, 1976

History of the Pesticide Regulatory Program's Environmental Impact Report Functional Equivalency, Continued

Environmental Assessment Team

In 1977, the State formed an Environmental Assessment Team to prepare a "master" (programmatic) EIR, pursuant to chapter 4.5 of CEQA, covering the use of all registered pesticides, in all areas of the State. After more than a year's work, Environmental Assessment Team attorneys concluded it could not be done and advised that "the major problem facing California Department of Food and Agriculture and CACs is not CEQA, but the fact that they do not have a process. The major deficiency of the program is its probable failure to comply with the Food and Agricultural Code (FAC) in taking into account all of the established criteria prior to registration and permit decisions, as well as the inability of anyone other than the decision-maker to determine what is taken into account."[2]

In response, the State's pesticide regulators returned to the Legislature, obtained an extension of the moratorium, and took an entirely different approach. This new approach was to develop a regulatory program that could be certified as "EIR functionally equivalent."[3]

Public Resources Code

Under what was then Public Resources Code (PRC) section 21080.5, regulatory programs which have protection of the environment among their principal purposes and which require a plan or other written documentation could be exempted from EIR requirements upon certification by the Secretary of the Resources Agency that the programs meet specified criteria. The PRC provided for functional equivalency for regulatory programs that involve the issuance of a permit, license, certificate, or other entitlement for use or for the adoption or approval of standards, regulations, or plans for use in the regulatory program.

Note: Section 21080.5 does not confer complete CEQA functional equivalency. There are other CEQA requirements discussed below, that still apply, even to a certified functional equivalent program. For this reason, this overview refers to "EIR functional equivalency" rather than "CEQA functional equivalency."

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[2] Memo from Katherine Striemer to Dan Dooley, February 17, 1979, Administrative Feasibility of Complying with CEQA

[3] Questions and Answers in Regard to AB 3765, Assembly Resources Land Use and Energy Committee, April 18, 1978 (ENF 78-28)

Statutory resolution

Chapter 308, Statutes of 1978 (AB 3765) was enacted to facilitate the functional equivalency approach. Among other things, it amended PRC section 21080.5 to more clearly prescribe the procedure the Secretary of the Resources Agency must follow for the certification or withdrawal of certification (of programs in general). The Legislation also laid out a timetable for submission of the pesticide program for certification.

The Legislature made several findings and declarations in Chapter 308 relating to pesticides, pest control, and EIRs, including the following:

- Agriculture is a major and essential component of California's economy.
- The appropriate use of pesticides is essential for agricultural production and health protection.
- Timeliness of pesticide use is paramount in pest management and prevention of economic waste.
- Reasonable environmental review of pesticide use is prudent and appropriate.
- Permits must often be issued on short notice making impracticable (regular) environmental review and EIRs.
- Preparation of EIRs for pesticide permits would be an unreasonable burden on California agriculture and health protection agencies.
- Procedures for governmental review of pesticide use shall not unnecessarily burden permit applicants.

In Chapter 308, the California Legislature established as the policy of California, that environmental review of pesticide use be achieved through the procedures established in PRC Section 21080.5 rather than by EIRs[4].

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[4] Chapter 308, Statutes of 1978 (AB 3765).

History of the Pesticide Regulatory Program's Environmental Impact Report Functional Equivalency, Continued

Regulatory changes

The State's pesticide regulators recognized that changes in regulations were necessary to meet the requirements of functional equivalency. Proposed changes were developed in the areas of:

- Pesticide registration, evaluation, and classification procedures;
- Consultation with other agencies, consideration of feasible alternatives, and noticing of proposed registration actions and decisions;
- The consideration of feasible alternatives and mitigation measures when determining when to use, and obtaining a permit to use, a restricted material.

The proposed regulations were developed by the State's pesticide regulators working with many groups, including: CACs; other state agencies and departments; and environmental, agricultural, consumer, and pesticide producer interests. The regulations did not represent a consensus of all individuals serving on the various groups, but did involve considerable "give-and-take" on specific issues. In 1979, hearings on the proposed regulations generated a great deal of oral and written testimony. Agriculture and the pesticide industry charged that the regulations went too far, while environmental groups testified the regulations did not go far enough.

New regulations

After substantial rewriting, the provisions pertaining to State operations were adopted and became effective on January 4, 1980. Provisions relating to pesticide permits were postponed until July 1, 1980, when funding could be appropriated to the counties for the costs of new permitting activities.

Program certified

The pesticide regulatory program was submitted to the Secretary of the Resources Agency on November 1, 1979, and was certified on December 28, 1979, as "EIR functionally equivalent." This meant that the State and CACs did not have to prepare an EIR (or negative declaration) on each product or permit approved. Instead of an EIR, documentation of local environmental impacts, mitigation measures, and alternatives was required[5].

[5] History of Events Leading up to AB 3765 Pesticide Regulations, Department of Food and Agriculture, Circa 1980.

Section D.2

How Requirements of Public Resources Code Section 21080.5 Are Addressed by the Program

Requirements for a functionally equivalent program

Public Resources Code section 21080.5(d)(1) provides for EIR functional equivalency when the regulatory program of a State agency operates under a plan that includes a description of the proposed activity that addresses both alternatives to the activity and mitigation measures to minimize any significant adverse effect of the activity on the environment. For purposes of this section, the CAC is a State agency. (*PRC section 21080.5*)

Scope

This discussion will focus on the permit program and briefly discuss the registration program. The Administrative Procedure Act, found in the Government Code beginning at section 11340 (administered by the Office of Administrative Law), specifically controls the adoption of regulations. This parallel process includes many of the aspects required of a functionally equivalent program, and will not be addressed here.

Inter-disciplinary approach

The EIR functionally equivalent program must use an interdisciplinary approach that will ensure the integrated use of the natural and social sciences in decision-making. The permitting process, administered by the CACs, relies on the data submission and evaluation conducted on pesticide products during the registration process to identify potential hazards and suggest example mitigation measures if pesticide labeling and regulations do not adequately mitigate the hazard. Use of a pesticide under a restricted materials permit must be in compliance with the registered labeling.

DPR scientists use an interdisciplinary approach working closely with other state agencies, including the Departments of Fish and Game and Health Services, as well as agencies within the California Environmental Protection Agency, including the Air Resources Board, Department of Toxic Substances Control, Office of Environmental Health Hazard Assessment, and State Water Resources Control Board. DPR regularly consults with members of at least three committees which are composed of representatives from many different disciplines, including environmental interest groups, farm labor organizations, and consumer advocates. The CACs use the determinations made about the pesticide to properly consider environmental impacts and appropriately condition permits to mitigate any significant adverse impacts.

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Protection of the environment

The enabling legislation of the regulatory program must include protection of the environment among its principal purposes. The overall purposes of the pesticide regulatory program are found in FAC section 11501. They include protection of the environment from environmentally harmful pesticides by prohibiting, regulating, and ensuring proper stewardship of those pesticides. The implementation of pest management systems to achieve acceptable levels of control with the least possible harm to the environment is also encouraged.

The criteria for designating pesticides as restricted materials in FAC section 14004.5 includes hazard to the environment from drift and hazard of persistent residues that could lead to contamination of the environment. Food and Agricultural Code section 14006.5 requires the CAC to consider local site-specific environmental conditions before issuing any permit. Food and Agricultural Code section 14006.5 also prohibits the CAC from issuing a permit if the pesticide:

- Has demonstrated serious uncontrollable adverse effects;
- Use is less of a public value or greater detriment to the environment than the benefit received from its use; or
- Has a feasible alternative that is demonstrably less destructive to the environment (*FAC section 12825*).

Food and Agricultural Code sections 12824 and 12825 require DPR to eliminate from use any pesticide that:

- Endangers the environment;
- Is not beneficial;
- Is misrepresented;
- For which the detriment is greater than the benefit;
- For which there is a less detrimental alternative;
- Outlines general criteria to evaluate pesticides.

Food and Agricultural Code section 12824 also authorizes the Director to establish specific criteria to evaluate pesticides. Reevaluation criteria are found in 3 CCR section 6221.

Food and Agricultural Code section 14102 requires DPR to "… take whatever steps are necessary to protect the environment."

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Authority to adopt regulations

The administering agency must have the authority to adopt regulations for the protection of the environment.

General regulation adoption authority is found in FAC sections 11456 and 12976. Food and Agricultural Code section 14004.5 provides specific authority to adopt by regulation, a list of restricted materials, and FAC sections 14005 and 14006 authorize regulations governing the conditions of possession and use of restricted materials. There are several other sections which grant other specific authority to adopt regulations in specific areas that are not relevant to permit issuance.

The authority to adopt regulations establishing registration procedures is found in FAC section 12781. This is a general grant of authority for the entire pesticide registration program. There are other specific grants of regulatory authority that are largely duplicative and are not listed here.

Section D.3

Specific Procedural Requirements of Public Resources Code Section 21080.5(d)(2) and (3)

Environmental impact report functional equivalency requirements

There are specific procedural requirements that must be included in the program or regulations that approximate the CEQA requirements of an EIR.

1. Orderly evaluation

The EIR-equivalent program must contain guidelines for the orderly evaluation of proposed activities and the preparation of a plan* or other written documentation in a manner consistent with the environmental protection purposes of the regulatory program.

Title 3, CCR, Chapter 2, Subchapter 4, Article 3, Permit System, beginning with section 6420, outlines the procedures for the orderly evaluation of permit applications. It outlines the information that the application must contain (*3 CCR sections 6428 and 6430*), and requires the CAC to evaluate the potential environmental impact, based on his/her knowledge of local conditions (*3 CCR section 6432*).

Permits issued with "incomplete" data are made "site and time specific" when missing data are submitted through a "Notice of Intent" (*3 CCR section 6434*), which is considered part of the permit.

A directly affected person may petition the Director to have a permit, issued by the CAC, reviewed by the Director. Title 3, CCR section 6442, outlines how the Director will handle those reviews.

If adverse impacts occur generally throughout any area, the Director or CAC may cancel all permits in that area (*3 CCR section 6444*).

Title 3, CCR Chapter 2, Subchapter 1, Article 8, Reevaluation Criteria, beginning with section 6220, requires continuous evaluation of all registered pesticides and provides for formal reevaluation of pesticides that, upon investigation, are found to cause a significant adverse environmental impact.

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Specific Procedural Requirements of Public Resources Code Section 21080.5(d)(2) and (3), Continued

2. Minimize adverse impacts

EIR-equivalent programs must require that an activity not be approved as proposed if there are feasible mitigation measures or feasible alternatives available that would substantially lessen any significant adverse effect that the activity may have on the environment.

Title 3, CCR section 6432 requires that a permit be conditioned to require use of mitigation measures, if the CAC determines that there are feasible mitigation measures. If there are no feasible mitigation measures, alternatives must be considered. Serious, uncontrollable adverse impacts may require refusal of the permit. In addition, 3 CCR section 6426 requires agricultural users of pesticides to consider and adopt any feasible mitigation measures or feasible alternatives that would lessen any significant adverse environmental impact.

Title 3, CCR section 6116 requires the Director to reject any "standard" or regulation that would cause a significant adverse environmental impact if there is a feasible mitigation measure or feasible alternative that would substantially reduce that impact.

3. Consultations

There must be a requirement for the administering agency to consult with all public agencies that have jurisdiction, by law, with respect to the proposed activity.

Title 3, CCR section 6122 requires the CAC to routinely consult with other agencies that have responsibility over resources in the county that may be affected by the use of pesticides. The CAC is also required to maintain his/her knowledge of local conditions in 3 CCR sections 6122 and 6432, to more effectively implement the permit program.

Title 3, CCR sections 6252 and 6256 provide for consultation with other agencies and the public on pesticide registration and general program issues. Food and Agricultural Code sections 12042, 12047, and 12980, provide for consultation in specific program areas.

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Specific Procedural Requirements of Public Resources Code Section 21080.5(d)(2) and (3), Continued

4. Respond to issues raised

The final action on the proposed activity must include the issuing authority's written responses* to significant environmental points raised during the evaluation process.

Food and Agricultural Code section 14009 authorizes any person to request "reconsideration" by the CAC on any permit. The CAC must respond with a written decision within ten days. This must take place before the appeal is made to the Director.

Title 3, CCR section 6119 requires the Director to respond to environmental points raised during the evaluation process for any registration action or adoption of a standard.

5. File decision with Secretary of Resources Agency

The decision by the administering agency on the proposed activity must be filed with the Secretary of the Resources Agency*. These notices shall be available for public inspection. Each list shall remain posted for a period of 30 days.

Decisions on individual pesticide use permits are not filed with the Secretary of the Resources Agency. The need for timely pest control makes this delay impractical. The permits are available in the CAC's office for review.

Title 3, CCR section 6116 requires the Director to forward a copy of any Notice of Decision adopting a standard to the Secretary of the Resources Agency for posting for 30 days.

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Specific Procedural Requirements of Public Resources Code Section 21080.5(d)(2) and (3), Continued

6. Notice available for comment

The Notice of Decision must be available for a reasonable time for review and comment* by the public and other agencies.

Generally, there is no routine notice to other agencies for review and comment when an individual permit is issued. If other agencies have an interest in any particular permit, this could be discussed during the CAC consultation, pursuant to 3 CCR section 6122. The need for timely pest control makes this delay impractical.

The permits are available in the CAC's office for review and request for reconsideration provided in FAC section 14009. Any person who will be directly affected by the proposed application may appeal the CAC's final decision to the Director.

Title 3, CCR sections 6110, 6116, and 6118 all relate to decisions of the Director relating to the adoption of standards being available to the public and other agencies for review and comment.

7. Description of proposed activity

The plan or other written document must include a description of the proposed activity*.

Food and Agricultural Code section 14006.5 and 3 CCR sections 6430 (non-agricultural) and 6438 (agricultural) outline the requirements for the information describing the proposed activity that must be provided to the CAC with the application for a permit.

The proposed labeling for the product submitted with the application for registration describes the scope of the legal uses that would be allowed (cite).

Continued on next page

Specific Procedural Requirements of Public Resources Code Section 21080.5(d)(2) and (3), Continued

8. Mitigation measures

The plan or other written document must describe mitigation measures* that would lessen the environmental impact of the proposed activity.

Title 3, CCR section 6426 requires pest control advisers and growers to consider and adopt any feasible mitigation measures for the proposed activity. Title 3, CCR section 6432 requires the CAC, when evaluating the permit application, to determine if there are feasible mitigation measures and if there are, to condition the permit upon use of those mitigation measures. Title 3, CCR section 6556 requires certification on the recommendation that any feasible mitigation measures have been considered and adopted.

Food and Agricultural Code section 12824 requires DPR to thoroughly evaluate each pesticide and place mitigating conditions upon its use to mitigate hazards.

9. Alternatives

The plan or other written document must describe alternatives* to the proposed activity.

Title 3, CCR section 6426 requires pest control advisers and growers to consider and adopt any feasible alternatives to the proposed activity. Title 3, CCR section 6556 requires certification on the recommendation that feasible alternatives have been considered. Title 3, CCR section 6432 requires the CAC, when evaluating the permit application, to determine if there is a feasible alternative.

Food and Agricultural Code section 12824 requires DPR to thoroughly evaluate each pesticide and eliminate from use any pesticide that endangers the environment. DPR is required to continuously evaluate all registered pesticides.

* Section 5, Chapter 308, Statutes of 1978 expressly exempts permits from the requirements to prepare and make public a plan or other written documentation, prepare written responses to significant environmental points raised, and file a notice of decision with the Secretary of the Resources Agency.

However, the issuance of a permit for pesticide use is subject to, and CACs must comply with, requirements that permits not be approved as proposed if feasible mitigation measures or feasible

alternatives are available that would substantially lessen any significant adverse environmental impact. Permits are also subject to the requirements that there be guidelines for the orderly evaluation of the proposed activity that there be consultation with all public agencies that have legal jurisdiction.

Section D.4

Scope of Certified Activities

Background

A regulatory program certified pursuant to PRC section 21080.5 is exempt from Chapters 3 and 4, and section 21167 of CEQA. The Secretary of the Resources Agency has certified the following specified activities of the pesticide regulatory program administered by DPR and the CACs as EIR functionally equivalent:

- The registration, evaluation, and classification of pesticides.
- The adoption, amendment, or repeal of specified regulations and standards.
- The regulation of the use of pesticides through the permit system administered by the CACs.

Not Exempt

A certified program is not exempt from Chapters 1, 2, 2.5, 4.5, and 5 of CEQA. These chapters are described below.

CEQA: Chapter 1

Chapter 1 of CEQA contains the legislative intent. It declares that it is the policy of the State to "take all actions necessary to protect, rehabilitate, and enhance the environmental quality of the State." It also declares that "all agencies of the State government which are found to affect the quality of the environment shall regulate their activities so that major consideration is given to preventing environmental damage, while providing a decent home and satisfying living environment for every Californian."

Courts decisions[6,7] have made it clear that these broad mandates apply to certified programs such as pesticide regulation. Chapter 1 of CEQA also contains a policy that agencies "should not approve projects (permits) if there are feasible alternatives or feasible mitigation measures available which would substantially lessen the significant environmental effects of the projects . . . ."

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[6] EPIC v. Johnson (1985) 170 Cal. App. 3d 604
[7] Laupheimer v. State of California, 200 Cal. App. 3d 440

Scope of Certified Activities, Continued

CEQA: Chapters 2, 2.5, and 4.5	Chapters 2 and 2.5 establish the title of CEQA and the definitions. Chapter 4.5 provides for regulatory streamlining through a "Master (programmatic) EIR" for certain large projects. It also discusses reviews pertaining to pollution control equipment
CEQA: Chapter 5	Chapter 5 of CEQA states that an agency can require a permit applicant to submit "data and information which may be necessary to enable the agency to determine whether the proposed project may have a significant effect on the environment or to prepare an EIR." The California Supreme Court[8] has confirmed that this authority applies to certified programs such as the DPR[9] Restricted Materials Permit Program. This is significant additional authority for a CAC to require information from the applicant for a restricted materials permit, beyond that expressly listed in the regulations covering permit issuance.

[8] Sierra Club v. State Board of Forestry, (1994) 7 Cal. 4th 1215

[9] *Are Certified Regulatory Programs "Functionally Equivalent" to CEQA?* Daniel Pollak, California Research Bureau, California State Library, March 2002

Appendix E

Understanding California's Definitions of Agricultural and Non-Agricultural Use Pest Control

Pest control defined

The application of many pesticide sales and use requirements is tied to specific terms used in the law and regulations. It is necessary to understand these terms to fully understand the pesticide regulatory program.

To understand the basic difference between the definitions of "non-agricultural use" and agricultural use," you must first understand the definition of "pest control." Pest control (*FAC sections 11403 and 11408, and 3 CCR section 6000*) is the use of any pesticide *(FAC section 12753),* method, or device *(FAC section 15300)* to:

- Control (including prevent, repel, or attract) any pest
- Control a plant (disorder) disease
- Regulate growth by the direct application of a plant growth regulator (*FAC section 12756*) to plants (*FAC section 11403*)
- Defoliate plants

What pest control does not include

Pest control does not include the following:

- Monitoring for pest presence (U.S. EPA interpretation)
- The use of a tool or implement (hoe, rake, disc, or harrow) to control weeds (DPR licensing policy)
- The use of a fertilizing material to maximize potential plant growth (as opposed to stimulate, regulate, or alter through physiological action)
- The use (in certain circumstances) of a substance to control external animal pests. (Some of these substances are classified as livestock drugs, rather than pesticides, by agreement between U.S. EPA and USDA.)
- The control of microorganisms living in or on humans or animals. (These are not pests as defined in FAC section 12754.5.)

Pesticide use types

The law identifies seven types of pesticide use. Six are non-agricultural exceptions and the seventh is agricultural use.

Continued on next page

Understanding California's Definitions of Agricultural and Non-Agricultural Use Pest Control, Continued

Non-agricultural use pest control

Non-agricultural use pest control includes:

- **Home:** Use within, or in the immediate environment of, a household.
- **Industrial:** Use within the confines of, or on property necessary for, the operation of factories, processing plants, packinghouses, or similar facilities, or use for or in a manufacturing, mining, or chemical process. In California, industrial use does not include use on rights-of-way. Post harvest commodity fumigations at facilities or on trucks, vans, or rail cars are normally industrial use.
- **Institutional:** Use within the confines of, or on property necessary for the operation of, buildings such as schools (playgrounds are necessary for the operation of a school), hospitals, office buildings, libraries, or auditoriums. When a licensed Structural Pest Control Operator treats these buildings, it is structural use. Landscaping of walkways, parking lots, and other areas immediately adjacent to these buildings is institutional. Landscaping of larger, more independent areas is not considered institutional.
- **Structural:** Use by a licensed Structural Pest Control Operator within the scope of their license.
- **Vector control:** Use by certain vector control (mosquito abatement) districts.
- **Veterinarian:** Use by, or pursuant to, the written prescription of a licensed veterinarian within the scope of their practice. There is no requirement for veterinarians to write prescriptions to themselves, so although not specifically mentioned in the law, by policy, veterinarians are covered by this use pattern.

Agricultural use pest control

Agricultural use pest control includes:

- **Production Agricultural Use:** Any use to produce a plant or animal agricultural product (food, feed, fiber, ornamental, or forest) that will be distributed in the channels of trade.
  NOTE: While production agricultural use includes a variety of agricultural products, some requirements (most notably in the worker safety and use records/reporting areas) apply only to plant product production.

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Agricultural use pest control (continued)

Non-production Agricultural Use: Use on any other area not specifically listed in any of the non-agricultural exceptions is agricultural use even though not related to production of an agricultural product. In California, agricultural use includes such areas as watersheds, rights-of-way, and landscaped areas (such as golf courses, parks, recreation areas, and cemeteries) not covered by the definitions of home and institutional.

Examples of typical classification of various uses

The uses named in the law fall into basically two groups, either *user* (Structural, Vector control, and Veterinarian) or *situational/site* (Agricultural, Home, Industrial, and Institutional). Many items that are treated can be located in more than one situation or treated by different users; this can change the use designation of that item. For that reason, some items are not classifiable into only one of the use categories. For example:

- A tree can be residential landscape (home), institutional landscape (institutional), or watershed (non-production agriculture) depending upon where it is growing. However, if that same tree is growing in an orchard, it would be production agriculture.
- Milk handling equipment located on a dairy would be production agriculture, while that same kind of equipment located at a milk processing plant would be industrial.
- An agricultural product fumigated in storage on a farm could be production agriculture while that same product fumigated in storage at a processing plant would be industrial.
- A swimming pool located in proximity to a residence would be home use. A city, school, or other public pool would generally be institutional.

Most often, issues arise when making a determination between production agriculture and one of the non-agriculture categories because of differing regulatory requirements. Generally, treatments done by and on an agricultural production establishment tend to be production agriculture if the physical form of the product has not been changed (simply drying a product is not normally considered a change in its form). This rule may not apply if the agricultural production establishment also does treatments as a service or handles product from other producers. In that case, they are considered to have established an industrial facility adjacent to their agricultural production enterprise.

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Examples of typical classification of various uses (continued)	This general rule also applies to packing facilities. Packing produce in the field as part of the harvesting operation is normally considered production agriculture. However, if the agricultural production establishment has a separate packing facility, it would usually be considered an industrial facility and use in that situation would be considered industrial.

Understanding California's Definitions of Agricultural and Non-Agricultural Use Pest Control, Continued

Production Agriculture Use*:

- Apiaries
- Aquaculture
- Christmas tree production
- Crop production (orchards, groves, fields)
- Crops grown for seed
- Drying product in the field
- Feed and forage
- Field packing
- Fish production
- Flowers (cut and sold)
- Forests/timber production
- Greenhouse/nursery production
- Livestock production (meat/milk)
- Post harvest commodity treatment on the farm
- Poultry production (meat/eggs)
- Preplant soil treatments
- Rangeland and pasture
- Research (production)
- Tree hole fumigation
- Turf (grown for sod)
- Washing product in the field

Non-Production Agricultural Use*:

- Cemeteries
- Ditch banks
- Farm roads
- Field borders and headlands
- Golf courses
- Greenbelts
- Ground water recharge ponds
- Highway medians
- Lakes, rivers, and streams
- Parks
- Railroad shoulders
- Recreation areas
- Research (commodity destroyed)
- Reservoirs
- Roadsides
- Rights-of-way
- Uncultivated (fallow) agricultural ground

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Understanding California's Definitions of Agricultural and Non-Agricultural Use Pest Control, Continued

Non-Agriculture Use*:

- Airports-*Industrial*
- Amusement parks-*Institutional*
- Apartments/townhouses-*Home*
- Auditoriums-*Institutional*
- Clubhouse landscape-*Institutional*
- Condominiums-*Home*
- Construction sites-*Industrial*
- Food manufacturing plants-*Industrial*
- Grain elevators-*Industrial* (production agriculture if on farm)
- Home gardens (no distribution)-*Home*
- Homes and residences-*Home*
- Hospitals-*Institutional*
- Libraries-*Institutional*
- Lumber yards-*Industrial*
- Mobile home parks-*Home*
- Mosquito abatement districts-*Vector control*
- Nurseries (retail non-production)-*Industrial*
- Office complex (around outside) -*Institutional*
- Office parking lots- *Institutional*
- Oil wells-*Industrial*
- Packing houses-*Industrial*
- Paper mills-*Industrial*
- Pet animals-*Home*
- Ports-*Industrial*
- Post harvest commodity treatments-*Industrial*
- Prescription from veterinarian-*Veterinarian*
- Ranchette pasture (no distribution of product)-*Home*
- Restaurants-*Industrial*
- Schools (buildings and grounds)-*Institutional*
- Seed treatment-*Industrial*
- Sewage treatment plants-*Industrial*
- Sewer lines-*Industrial*
- Shipyards-*Industrial*
- Shopping malls (inside or outside)-*Institutional*
- Swimming pools-*Various*
- Uncultivated non-agricultural ground-*Various*
- Water treatment plants-*Industrial*
- Wood treatment plants-*Industrial*
- Zoos-*Institutional*

*The most common designation is indicated in italics. However, as previously discussed in this document, some of these use designations may change depending upon the setting or the status of the user.

Appendix F

Additional Web Resources

Introduction The following Web sites contain additional information on restricted materials and related topics. Select the Web address to access the specific Web site.

Topic	Web Site Location
Department of Pesticide Regulation (DPR)	http://www.cdpr.ca.gov/
DPR Databases	http://www.cdpr.ca.gov/dprdatabase.htm
Forms Requisition (PR-ENF-197)	http://www.cdpr.ca.gov/docs/enfcmpli/penfltrs/penf2005/2005atch/attach0101.pdf
Ground Water Protection Program	http://www.cdpr.ca.gov/docs/gwp/index.htm
Inspection and other forms used by County Agricultural Commissioners	http://www.cdpr.ca.gov/docs/enfcmpli/prenffrm/prenfmnu.htm
The permit process for restricted pesticides	http://www.cdpr.ca.gov/docs/factshts/permitting.pdf
Regulating Pesticides: The California Story, A Guide to Pesticide Regulation In California	http://www.cdpr.ca.gov/docs/pressrls/dprguide1.htm
Restricted Materials and Permitting, Vol. 3, Pesticide Use Enforcement Program Standards Compendium	http://www.cdpr.ca.gov/docs/enfcmpli/compend/vol_3/rstrct_mat.htm
Restricted Material Permitting	http://www.cdpr.ca.gov/docs/enfcmpli/permitting.htm
Restricted Materials Requirements Chart	http://www.cdpr.ca.gov/docs/enfcmpli/pr-pml-013a.pdf
U.S. Environmental Protection Agency (U.S. EPA)	http://www.epa.gov/
U.S. EPA Restricted Use Products (RUP) Report	http://www.epa.gov/opprd001/rup/