

**NOTICE OF MODIFICATIONS TO TEXT OF PROPOSED CHANGES
IN THE REGULATIONS PERTAINING TO
FIELD FUMIGATION USE REQUIREMENTS**

Pursuant to the requirements of Government Code section 11346.8(c) and section 44 of Title 1 of the California Code of Regulations (CCR), the Department of Pesticide Regulation (DPR) is providing notice of changes made to the proposed text of section 6452.2 of Title 3, CCR. These changes are in response to comments received during the public comment period and for reasons stated below. The public comment period on the originally proposed regulatory action closed on November 17, 2010. The Director finds that the modifications are sufficiently related to the original text of the proposed action. The modified text is being made available to the public for 15 days, during which written comments on the modifications will be received as provided in Government Code section 11346.8(c).

DPR will accept written comments relevant to the modifications between January 12, 2011, and 5:00 p.m. on January 27, 2011. Written comments relevant to the modifications may be sent via e-mail <dpr10004@cdpr.ca.gov>; or may be directed to Ms. Linda Irokawa-Otani, Regulations Coordinator, Department of Pesticide Regulation, 1001 I Street, P.O. Box 4015, Sacramento, California 95812-4015. FAX: (916) 324-1452.

Modify section 6452.2 to:

- Revise subsection 6452.2(a) to delete the proposed amendment that provides DPR with the flexibility to implement fumigant limits even if the "trigger" for fumigant limits is not reached. The proposed criteria to be used establish such a fumigant limit was unclear and DPR was unable to develop more objective criteria to establish a fumigant limit if the specified levels are not exceeded. Due to the lag in pesticide use reporting, DPR relies on two-year old data to determine the need for a fumigant limit in the upcoming year. DPR considered other methods for obtaining more up-to-date information, but the alternative methods were costly and still uncertain, particularly for the San Joaquin Valley. Therefore, DPR proposes to delete this provision due to lack of clarity.
- Add subsection (a)(1) to require that if a VOC emission limit is in effect that limit must remain in effect until the commissioner does not condition a permit to include a fumigant emission allowance, and does not deny any permit or notice of intent in order to comply with the fumigant emission limit for two consecutive years. Current regulations require a fumigant limit in the Ventura ozone nonattainment area at least until 2012. Pesticide VOC emissions in Ventura were much lower than expected for the last two years. DPR is uncertain if the low emissions are due to the fumigant limit currently in effect, or a decrease in fumigant use for other reasons. The proposed subsection provides objective criteria to determine if a fumigant limit is needed, or if decreased use negates the need for a fumigant limit.

Current wording of the regulation is shown in normal type. Originally proposed additions are shown by underline. Originally proposed deletions are shown by ~~strikeout~~. New proposed deletions are indicated by ~~*italics and strikeout*~~. New wording to be added by the modifications is shown in **bold double underline**.

All written comments received by 5:00 p.m. on January 27, 2011 which pertain to the indicated changes will be reviewed and considered in this rulemaking. Please limit your comments to the modifications of the text.

This Notice of Modifications to Text of Proposed Changes and the text of modified regulations are also available on DPR's Internet Home Page <<http://www.cdpr.ca.gov>>.



Mary-Anne Warmerdam, Director
Department of Pesticide Regulation



Date