TEXT OF MODIFIED REGULATIONS

Current wording is indicated by regular type.
Originally proposed deletions are indicated by ~~strikeout~~.
Originally proposed additions are indicated by underline.
New proposed deletions are indicated by ~~*italics and strikeout*~~.
New proposed additions are indicated by **bold double underline**.

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

Amend section 6445.5 to read:

6445.5. Field Fumigation Licensing Requirements.

~~Effective January 1, 2009, w~~When a field fumigation application is made by a licensed pest control business, the business must have a person holding a qualified applicator license or certificate with the field fumigation pest control subcategory supervising the work.

NOTE: Authority Cited: Sections 11456, 11502, and 14005, Food and Agricultural Code. Reference: Sections 11501, 14001, and 14151, Food and Agricultural Code.

Amend section 6448.1 to read:

6448.1. 1,3-Dichloropropene Field Fumigation Methods.

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

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

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

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

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

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

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

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

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

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

(1) Nontarpaulin/Shallow/Broadcast or Bed

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

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

(2) Tarpaulin/Shallow/Broadcast or Bed

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

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

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

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

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

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

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

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

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

2. On the day of fumigation, the first water treatment must ~~consist of at least 0.20 inches of water,~~ begin~~ning~~ within 30 minutes of the completion of fumigation. A second post-fumigation water treatment must ~~consist of at least 0.20 inches of water applied~~ start~~ing~~ no earlier than one hour prior to sunset on the day of fumigation and completed by midnight.

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

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

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

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

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

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

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

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

2. On the day of fumigation, the first water treatment to the untarped areas must ~~consist of at least 0.20 inches of water to the untarped areas~~, begin~~ning~~ within 30 minutes of the

completion of fumigation. A second post-fumigation water treatment to the untarped areas must ~~consist of at least 0.20 inches of water to the untarped areas applied~~ start~~ing~~ no earlier than one hour prior to sunset on the day of fumigation and completed by midnight.

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

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

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

(5) Nontarpaulin/Deep/Broadcast or Bed

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

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

(6) Tarpaulin/Deep/Broadcast or Bed

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

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

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

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

(7) Chemigation (Drip System)/Tarpaulin

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

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

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

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

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

(~~d~~ e) Tarpaulin Repair.

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

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

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

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

Amend section 6449.1 to read:

6449.1. Chloropicrin Field Fumigation Methods.

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

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

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

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

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

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

(d) Tarpaulin Repair.

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

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

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

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

Amend section 6450.1 to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

2. On the day of fumigation, the first post-fumigation water treatment must ~~consist of at least 0.20 inches of water,~~ begin~~ning~~ within 30 minutes of the completion of fumigation. A second post-fumigation water treatment must ~~consist of at least 0.20 inches of water applied~~ start~~ing~~ no earlier than one hour prior to sunset on the day of fumigation and completed by midnight.

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

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

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

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

2. On the day of fumigation, the first post-fumigation water treatment must ~~consist of at least 0.20 inches of water,~~ begin~~ning~~ within 30 minutes of the completion of fumigation. A second post-fumigation water treatment must ~~consist of at least 0.20 inches of water applied~~ start~~ing~~ no earlier than one hour prior to sunset on the day of fumigation and completed by midnight.

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

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

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

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

(5) Nontarpaulin/Shallow/Broadcast or Bed /Two Post-Fumigation Water Treatments

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

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

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

(7) Chemigation (Drip System)

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

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

(8) Rotary Tiller/Power Mulcher/Soil Capping

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

(9) Flood

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

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

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

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

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

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

2. The application equipment must meet the following criteria:

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

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

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

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

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

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

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

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

(12) Drench

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

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

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

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

Amend section 6452.2 to read:

6452.2 Fumigant Volatile Organic Compound Emission Limits.

(a) ~~Beginning in 2011, t~~The Director shall establish field fumigant volatile organic compound (VOC) emission limits in the Annual Volatile Organic Compound Emissions Inventory Report issued pursuant to section 6452.4 for areas ~~that exceed 80 percent of~~ where the difference between emissions in the most recent inventory report and the benchmarks for that area is five percent or less of the benchmarks or exceeds the benchmarks ~~the emissions benchmarks~~ listed below during the May 1 through October 31 time period:

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

~~*However, the Director may establish a field fumigant VOC emission limit even if the emissions do not exceed the levels described above. The Annual Volatile Organic Compound Emissions Inventory Report shall include the reasons for establishing such fumigant limits. Reasons to establish fumigant limits include but are not limited to: emissions are less than the benchmarks due to fumigant limits in effect and restrictions specified in (c) or (d); emissions show an increasing trend over several years; or anticipated changes in cropping or pesticide use patterns.*~~ ~~This subsection shall not apply to Ventura until 2012. The field fumigant VOC emission limits for the Ventura ozone nonattainment area prior to 2012 are established pursuant to subsection (c).~~

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

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

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

(1) Condition permit to include fumigant emission allowances.

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

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

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

~~**Ozone Nonattainment Area**~~	~~**Total Agricultural and Structural VOC Emissions Inventory Benchmarks from May 1 to October 31**~~
~~Ventura~~	~~1,500,000 lbs. (4.0 tons/day average) in 2009~~
~~Ventura~~	~~1,300,000 lbs. (3.6 tons/day average) in 2010~~
~~Ventura~~	~~1,200,000 lbs. (3.3 tons/day average) in 2011~~

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

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

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

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

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

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

6452.3 Field Fumigant Volatile Organic Compound Emission Allowances.

~~(a) No person may apply a field fumigant during the May 1 through October 31 time period in an ozone nonattainment area for which a fumigant emission limit has been established pursuant to section 6452.2, unless their restricted material permit includes a field fumigant emission allowance.~~

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

(1) ~~operator identification~~ restricted materials permit number;

~~(2) county;~~

(~~3~~ 2) crop;

~~(4) month(s) of application;~~
(~~5~~ 3) number of acres to be fumigated; and
(~~6~~ 4) identification of each site to be fumigated;
~~(7) meridian, township, range, and section of sites to be fumigated;~~
~~(8) verification of operator of property for each site identified;~~
~~(9) identification of fumigant products to be used;~~
~~(10) the application rate; and~~
~~(11) fumigation method.~~
~~(c) The Director shall establish a fumigant emission allowance(s) for each permittee so that the total allowances in each ozone nonattainment area do not exceed the fumigant limit established for that area. If the total allowances requested exceed an established fumigant emission limit, the Director will proportionally reduce each request to ensure that the limit is not exceeded.~~
~~(d) Commissioners in each ozone nonattainment area subject to a fumigant emission limit shall issue permits or amend existing permits to comply with the fumigant emission allowance(s) established by the Director.~~
~~(e) Commissioners shall deny any notice of intent that does not comply with the permittees' fumigant emission allowances.~~

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

6452.4. Annual Volatile Organic Compound Emissions Inventory Report.

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

(1) report the total agricultural and structural (fumigant and nonfumigant) pesticide volatile organic compound (VOC) emissions for the previous years. Nonfumigant pesticide product emissions will be the summation of the pounds of each pesticide product used multiplied by the VOC content (emission potential) for the specific product. Fumigant product emissions will be the summation of the pounds of each pesticide product used multiplied by the emission potential for that specific product and VOC emission rating for the application method, as specified in (5);

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

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

(4) ~~(reserved)~~

~~(5)~~ establish an emission rating for each field fumigation method described in sections 6447.3, 6448.1, 6449.1, 6450.1, 6450.2, 6451.1, or 6452. The emission rating will be expressed as a percentage of the amount of fumigant applied. The Director shall base the emission rating upon available scientific data documenting the VOC emissions.

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

~~(c) The emission ratings as shown in Table 22 in the September 29, 2007 Barry, Spurlock, and Segawa memorandum to John Sanders, shall be used to determine the emissions. These emission ratings may be modified by the final annual emissions inventory report.~~

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

CHAPTER 3. PEST CONTROL OPERATIONS
SUBCHAPTER 1. LICENSING
ARTICLE 3. QUALIFIED APPLICATORS

Amend section 6536 to read:

6536. Field Fumigation Licensing Requirements.

~~(a)~~ A person who performs or supervises field fumigation applications pursuant to section 6445.5 must hold a qualified applicator license or certificate in the subcategory of field fumigation pest control.

~~(b) Notwithstanding section 6530, examination requirements and fees required pursuant to section 6502 may be waived and a person may be issued a qualified applicator license or certificate in the field fumigation pest control (subcategory O) within 12 months from the effective date of this section, if the applicant meets the following criteria:~~

~~(1) Possesses a valid qualified applicator license or certificate in Agricultural Pest Control (category D), Regulatory Pest Control (category G), or Demonstration and Research (category J);~~

~~(2) Has at least 24 months of technical experience conducting field fumigation activities for a pest control business licensed by the Director from January 1, 2006 to December 31, 2008; and~~

~~(3) Has a statement signed by the pest control business under which the applicant is operating verifying this technical experience.~~

NOTE: Authority Cited: Sections 11456, 11502, and 14005, Food and Agricultural Code. Reference: Sections 11501, 14001, and 14151, Food and Agricultural Code.

SUBCHAPTER 2. WORK REQUIREMENTS
ARTICLE 1. PEST CONTROL OPERATIONS GENERALLY

Amend section 6626 to read:

6626. Pesticide Use Reports for Production Agriculture.

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

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

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

~~(d) A copy of the use report required by (a) or (b) for the application of a field soil fumigant in the Sacramento Metro, San Joaquin Valley, South Coast, Southeast Desert, and Ventura ozone nonattainment areas must be submitted to the Department with the field fumigation method as specified in section 6624(f) appended to the report. The report must be delivered to the Department according to the date specified in (a) or (b), whichever is applicable. This subsection shall remain in effect only until December 31, 2008.~~

(~~e~~ d) ~~Effective January 1, 2009, a~~ A use report required by (a) or (b) for the application of a field soil fumigants in the Sacramento Metro, San Joaquin Valley, South Coast, Southeast Desert, and Ventura ozone nonattainment areas shall include the information specified in 6624(f) in addition to that required by this section.

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

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

NOTE: Authority cited: Sections 11456, 11502, 12976, 13145 and 14005, Food and Agricultural Code. Reference: Sections 11501, 11708, 11733, ~~12981~~, 14006 and 14011.5, Food and Agricultural Code.