

TEXT OF FINAL REGULATIONS

Current wording is indicated by regular type.

Deletions are indicated by ~~strikeout~~.

Additions are indicated by underline.

TITLE 3. CALIFORNIA CODE OF REGULATIONS DIVISION 6. PESTICIDES AND PEST CONTROL OPERATIONS CHAPTER 1. PESTICIDE REGULATORY PROGRAM SUBCHAPTER 1. DEFINITION OF TERMS ARTICLE 1. DEFINITIONS FOR DIVISION 6

Amend section 6000 to read:

6000. Definitions.

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"Buffer zone" as used in sections 6447, 6447.1, 6447.2, ~~and 6447.3~~, and 6448 means an area that surrounds a pesticide application block in which certain activities are restricted for a specified period of time to protect human health and safety from existing or potential adverse effects associated with a pesticide application.

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NOTE: Authority cited: Sections 11456, 11502, 12111, 12781, 12976, 12981, 13145, 14001, and 14005, Food and Agricultural Code. Reference: Sections 11401.2, 11408, 11410, 11501, 11701, 11702(b), 11704, 11708(a), 12042(f), 12103, 12971, 12972, 12973, 12980, 12981, 13145, 13146, and 14006, Food and Agricultural Code.

CHAPTER 2. PESTICIDES SUBCHAPTER 4. RESTRICTED MATERIALS ARTICLE 4. FIELD FUMIGATION USE REQUIREMENTS

Amend section 6448 to read:

6448. 1,3-Dichloropropene Field Fumigation – General Requirements

(a) 1,3-Dichloropropene shall only be used for the production of an agricultural commodity.

(b) Field soil fumigations using 1,3-Dichloropropene are prohibited within a minimum distance (setback) of any structure that is, will be, or may be occupied at any time during the application and/or setback period, measured from the perimeter of the application block to any residence, onsite employee housing, schools, convalescent homes, hospitals, businesses, or other similar sites identified by the commissioner. A setback is also required for any other indoor or outdoor site that will be occupied for at least 72 consecutive hours during and following a 1,3-Dichloropropene application. The setback distance from an occupied structure or other site varies with the fumigation method, region, season, application rate, and application block size, and is specified in "1,3-Dichloropropene Field Fumigation Requirements, ~~est. January 1, 2024~~rev.

January 1, 2026,” hereby incorporated by reference. If the application block is within the setback distance from a structure, no person shall be present at the structure at any time during the application and for at least the seven consecutive day period after the application is complete.

(1) An application of 1,3-Dichloropropene is prohibited within the setback distance from any structure outside of the property to be treated, unless the operators of the other properties provide written agreement to the certified applicator prior to the application that the structures will be voluntarily vacated during the application and for at least the seven consecutive day period after the application is complete. The certified applicator shall provide a copy of the written agreements to the commissioner with each notice of intent.

(c) Setback requirements are more stringent if multiple 1,3-Dichloropropene field soil fumigations “overlap” in distance and time. To determine if overlapping application requirements apply, the setback distance specified in “1,3-Dichloropropene Field Fumigation Requirements, ~~est. January 1, 2024~~rev. January 1, 2026,” hereby incorporated by reference, is measured from the application block to the other 1,3-Dichloropropene application blocks rather than from the occupied structures. Setbacks for overlapping field soil fumigations are required if the setback distances for two or more 1,3-Dichloropropene application blocks overlap within 36 hours from the time the earlier application is complete until the start of the later application. For overlapping field soil fumigations, the setback from occupied structures is the same distance for all application blocks and determined using 1) the combined acreage of all overlapping application blocks, 2) the highest application rate, and 3) the setback table for the fumigation method with the largest setback distance specified in “1,3-Dichloropropene Field Fumigation Requirements, ~~est. January 1, 2024~~rev. January 1, 2026.” Fumigation methods that require the minimum setback restrictions specified in “1,3-Dichloropropene Field Fumigation Requirements, ~~est. January 1, 2024~~rev. January 1, 2026” for all field soil fumigations are exempt from the multiple field soil fumigations requirements.

(d) When a buffer zone is required for a 1,3-Dichloropropene application block, the buffer zone distance and duration, which vary with the fumigation method and crop to be planted, must be in accordance with the specifications in “1,3-Dichloropropene Field Fumigation Requirements, rev. January 1, 2026,” hereby incorporated by reference. While the buffer zone is in effect, the only activities allowed within the buffer zone are fumigant handling and transit. Local, state, or federal officials performing inspections, sampling, or other similar official duties are not excluded from the application block or buffer zone.

(1) The buffer zone must not include any property operated by persons other than the operator of the application block, unless the operator of the other property provides written agreement to the certified applicator that they, their employees, residents, and other persons will stay out of the buffer zone while it is in effect. The certified applicator shall provide a copy of the written agreements to the commissioner with each notice of intent.

~~(de)~~ An application of 1,3-Dichloropropene must not exceed the maximum broadcast equivalent application rate specified in “1,3-Dichloropropene Field Fumigation Requirements, ~~est. January 1, 2024~~rev. January 1, 2026,” hereby incorporated by reference.

~~(ef)~~ A 1,3-Dichloropropene application block must not exceed the acres specified in “1,3-Dichloropropene Field Fumigation Requirements, ~~est. January 1, 2024~~rev. January 1, 2026,” hereby incorporated by reference.

~~(fg)~~ Notwithstanding section 6434, the operator of the property to be treated shall assure that the commissioner is notified (notice of intent) at least 48 hours prior to commencing fumigation.

The notice of intent shall indicate the hour the fumigation is intended to commence and the information specified in section 6434(b).

NOTE: Authority cited: Sections 11456, 12976, 14005, 14024 and 14102, Food and Agricultural Code. Reference: Sections 11501, 14006, 14024 and 14102, Food and Agricultural Code.

Amend section 6448.2 to read:

6448.2. 1,3-Dichloropropene Field Fumigation Methods.

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(b) Except for drip chemigation field soil fumigations pursuant to subsection (d)(7), the application block must have a soil moisture of at least 50 percent of field capacity at a depth of three to nine inches below the surface when the fumigation occurs. One of the options described in “1,3-Dichloropropene Field Fumigation Requirements, ~~est. January 1, 2024~~rev. January 1, 2026,” hereby incorporated by reference, shall be used to comply with the soil moisture requirement.

(1) Subsection (d) describes several fumigation methods that use post-fumigation water treatments to reduce 1,3-Dichloropropene emissions. Fumigation methods using post-fumigation 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:

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

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

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

(c) Applications for tree and grape crops must use a fumigation method specified in subsection (d) with an injection point at least 24 inches below the soil surface or a TIF tarpaulin that meets the requirements in section 6448.1.

(1) If an application is made alternating fumigated and unfumigated areas (strip fumigation), the treated application block cannot be retreated with the same active ingredient between May 1 through October 31 during the same calendar year in the Sacramento Metro, San Joaquin Valley, South Coast, Southeast Desert, or Ventura ozone nonattainment areas.

(d) The 1,3-Dichloropropene field soil fumigation must be made using only the methods described in this section and identified by the field fumigation method code specified in “1,3-Dichloropropene Field Fumigation Requirements, ~~est. January 1, 2024~~rev. January 1, 2026,” hereby incorporated by reference. However between May 1 and October 31 within the San Joaquin Valley, Southeast Desert, or Ventura ozone nonattainment areas, method (d)(1) is prohibited; methods (d)(2), (d)(4), and (d)(7) are prohibited unless applied using a TIF tarpaulin that meets the requirements in section 6448.1(a); and method (d)(5) is prohibited when 1,3-Dichloropropene is used in combination with chloropicrin unless applied as alternating fumigated and unfumigated areas (strip fumigation). In addition to labeling requirements for each of these methods, the following requirements shall apply.

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NOTE: Authority cited: Sections 11456, 12976, 14005, 14024 and 14102, Food and Agricultural Code. Reference: Sections 11501, 14006, 14024 and 14102, Food and Agricultural Code.

Amend section 6448.4 to read:

6448.4. Annual 1,3-Dichloropropene Report

(a) The Director shall issue ~~an~~ draft annual 1,3-Dichloropropene report for each calendar year by ~~October~~November 1 of the following year or as soon thereafter as is reasonably practicable; ~~starting with a report covering calendar year 2024.~~

(b) The draft Annual 1,3-Dichloropropene Report must include the following:

(1) A list of the townships and monitoring locations that meet any of the following criteria for the previous calendar year.

(A) The township with the highest use of 1,3-Dichloropropene for each of the ten counties with the highest use of 1,3-Dichloropropene. If a township is located in more than one county, the township will represent all the counties and the highest township from the next highest county will be listed (e.g., township from the eleventh highest county). Ten townships will be listed, but they may represent more than ten counties. If the ten townships include adjacent townships in different counties only the township with higher use will be listed, and the highest township in the next highest county will be listed.

(B) Monitoring locations with an average air concentration of more than 0.27 parts per billion (ppb) in the previous calendar year.

(C) Monitoring locations with an air concentration of more than 55 ppb for a 24-hour period in the previous calendar year.

(2) An evaluation of the townships and monitoring locations listed in subsection (b)(1) determining the major factors affecting use levels and air concentrations. For each of the ten specified townships, the evaluation will include estimated 1,3-Dichloropropene air concentrations for the highest 24-hour period, the highest 72-hour period, and the one-year average based on the reported use, available emissions data, and local weather conditions. For each 1,3-Dichloropropene air monitoring location with air concentrations more than 0.27 ppb as a one-year average or 55 ppb for a 24-hour period, the evaluation will include an assessment of the validity and representativeness of the monitoring data, analysis of reported use, available emissions data, and local weather conditions to determine if the detected air concentrations are within the expected range. If any of the estimated or monitored air concentrations are higher than expected in comparison to previous data, the report will include a description of action(s) the Department will take to address the high levels and a timeline for taking the actions.

(c) ~~A~~The draft 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 finalizing the Annual 1,3-Dichloropropene Report. The final report will be posted on the Department's Web site.

NOTE: Authority cited: Sections 11456, 12976, 14005 and 14024, Food and Agricultural Code. Reference: Sections 11501, 14006 and 14024, Food and Agricultural Code.

Adopt section 6448.5 to read:

6448.5. Analysis of Need for and Implementation of Interim Mitigation Measures for 1,3-Dichloropropene.

(a) Starting with the report covering calendar year 2027, the draft Annual 1,3-Dichloropropene Report specified by section 6448.4(a) must include an evaluation to determine if the estimated 1,3-Dichloropropene air concentrations in any township exceeds 0.21 parts per billion (ppb) using the following data:

- (1) for the report covering calendar year 2027, a three-year average of 2025-2027 data;
- (2) for the report covering calendar year 2028, a four-year average of the 2025-2028 data;
- (3) for the report covering calendar year 2029, a five-year average of the 2025-2029 data;
- (4) For the report covering calendar year 2030 and subsequent years, a five-year average of the most recent data.

(b) The 0.21 ppb air concentration is a time-weighted average during a work period of 8:00 AM to 4:00 PM. However, the Department shall determine if estimated air concentrations exceed 0.21 ppb using alternative work periods if warranted for specific townships and times of the year when 1,3-Dichloropropene applications occur. If there is an exceedance of 0.21 ppb, the Department shall identify the factors causing the exceedance in the township(s), such as non-compliance with current requirements, fumigation method, weather conditions, application amount, or application frequency, and include a discussion of whether those factors are likely to continue.

(c) If the Department, in consultation with the Office of Environmental Health Hazard Assessment (OEHHA), determines that the factors causing 0.21 ppb to be exceeded are likely to continue in a township or townships, the Department will develop interim mitigation measures for 1,3-Dichloropropene that will result in an air concentration of no more than 0.21 ppb based on the relevant periods specified in subsection (a) and identify the relevant township(s) for the measures. The relevant townships are those that exceed 0.21 ppb or contribute to the exceedance in a nearby township. In developing the interim mitigation measures, the Department will consult with OEHHA and the commissioner(s) for the relevant township(s). The Department will include a description of the interim mitigation measures and relevant township(s) and an estimated timeline for publication of the interim mitigation measures in the Annual 1,3-Dichloropropene Report.

(d) The Department will publish the final interim mitigation measures as recommended conditions for restricted material permits under the timeline described in subsection (c) or as soon as is reasonably practicable. The interim recommended restricted material permit conditions expire within three years of the date of publication.

NOTE: Authority cited: Sections 11456, 12976, 12981, 14005 and 14024, Food and Agricultural Code. Reference: Sections 11501, 12980, 12981, 14006 and 14024, Food and Agricultural Code.

CHAPTER 3. PEST CONTROL OPERATIONS
SUBCHAPTER 2. WORK REQUIREMENTS
ARTICLE 1. PEST CONTROL OPERATIONS GENERALLY

Amend section 6624 to read:

6624. Pesticide Use Records.

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(c) In addition to the information required in subsection (b), the operator of the property which is producing an agricultural commodity, and an agricultural pest control business applying pesticides to such property, shall include in the records the following information for each pest control operation:

- (1) Location of the property treated, by county, section, township, range, base and meridian;
- (2) Date and time the treatment started and ended;
- (3) The operator identification number issued to the operator of the property treated;
- (4) The site identification number issued to the operator of the property treated;
- (5) ...
- (6) Total acreage (planted) or units at the site; and
- (7) Name or identity of the person(s) who made and supervised the application, if the pesticide application was made by an agricultural pest control business.
- (8) For an application of 1,3-Dichloropropene, the field fumigation method code referenced in “1,3-Dichloropropene Field Fumigation Requirements, ~~est. January 1, 2024~~rev. January 1, 2026,” hereby incorporated by reference.

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NOTE: Authority cited: Sections 12976, 13145, 13188, and 14005, Food and Agricultural Code.
Reference: Sections 11501, 11708, 11733, 13186, 14006, and 14011.5, Food and Agricultural Code.

Amend section 6626 to read:

6626. Pesticide Use Reports for Production Agriculture.

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(g) A use report required by subsections (a) or (b) for field soil fumigations using 1,3-Dichloropropene must include the field fumigation method code referenced in “1,3-Dichloropropene Field Fumigation Requirements, ~~est. January 1, 2024~~rev. January 1, 2026,” hereby incorporated by reference. Subsection (d) does not apply if a use report is submitted under this subsection.

- (1) A use report for 1,3-Dichloropropene must be submitted electronically in a manner specified by the commissioner.

(2) The Department shall post a summary of 1,3-D pesticide use report data on its Web site including summary data by county, township, month, crop, and fumigation method. The available data shall be posted at least quarterly as soon as reasonably practicable.

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