

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 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.

The provisions of section 6448.1 apply to field soil fumigation using 1,3-Dichloropropene within the Sacramento Metro, San Joaquin Valley, South Coast, Southeast Desert, or Ventura ozone nonattainment areas during the May 1 through October 31 time period. ~~Raised tarpaulin nursery fumigations of less than one acre, or replant of individual vine or tree sites (tree holes) less than one contiguous acre, are not considered field soil fumigations under the provision of section 6448.1.~~

(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,” 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,” 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.” Fumigation methods that require the minimum setback restrictions specified in “1,3-Dichloropropene Field Fumigation Requirements, est. January 1, 2024” for all field soil fumigations are exempt from the multiple field soil fumigations requirements.

(d) 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,” hereby incorporated by reference.

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

(f) 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 6448.1 to read:

6448.1. Approved Totally Impermeable Film (TIF) Tarpaulins for 1,3-Dichloropropene.

(a) The Director shall evaluate candidate totally impermeable film (TIF) tarpaulins and maintain a "List of Approved Totally Impermeable Film (TIF) Tarpaulins," available on the Department's Web site, that lists TIF tarpaulins authorized for field soil fumigations using 1,3-Dichloropropene based on the criteria specified below.

(1) Have a mass transfer coefficient for 1,3-Dichloropropene of no more than 0.046 centimeters per hour, measured using American Society for Testing and Materials (ASTM) method E2945-14 (2014), which is hereby incorporated by reference, under high humidity conditions (at least 90 percent).

(2) Display the tarpaulin name and lot number in print on the tarpaulin in a font size equal to 2-3 inches in height and printed at least 1 foot from each edge and at an interval of 20-30 feet along the length of the tarpaulin. The printing must be legible, including a printing color that is different from the color of the tarpaulin.

(b) The Director shall update the "List of Approved TIF Tarpaulins" to add, amend, or remove approved TIF tarpaulins on the list. The Director shall issue a public notice each time a change is made to this list and shall provide notice upon a denial of an application to add or amend a TIF tarpaulin on the list.

(c) Any interested person may appeal the Director's decision to approve, deny, amend, or remove a TIF tarpaulin from the "List of Approved TIF Tarpaulins" within 30 days of the issuance of the public notice required in subsection (b). The following procedures apply to the appeal:

(1) The appeal shall be in writing, state the grounds for the appeal, and include written evidence for the Director's consideration.

(2) The Director may request additional evidence for consideration on the appeal.


(3) The Director shall issue a written decision on the appeal within 45 days of the date of the appeal or as soon thereafter as practical.

~~(4) The Director may stay the use of a tarpaulin on the "List of Approved TIF Tarpaulins" pending review of the appeal.~~

(d) If a TIF tarpaulin is used, it must meet the requirements in subsection (a) at the time of the application.

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

WITHDRAWN

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by Mark Stone
Date: 2023.12.22
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Renumber section 6448.1 to section 6448.2 and amend to read:

6448.12. 1,3-Dichloropropene Field Fumigation Methods.

(a) ~~Broadcast equivalent application rate must not exceed 332 pounds of 1,3-Dichloropropene active ingredient per acre. An application of 1,3-Dichloropropene that uses either a totally impermeable film (TIF) tarpaulin or non-TIF (higher permeability) tarpaulin must meet the following requirements:~~

(1) An application block shall only be covered with tarpaulins in the same permeability category (i.e., two different brands of TIF tarpaulins may be used in an application block, but an application block cannot be covered with a mix of TIF and non-TIF tarpaulins).

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

(3) A tarpaulin plan must include the following elements:

(A) Identification of the tarpaulin, including brand name, lot number, thickness, manufacturer, batch number, and part number;

(B) A schedule for checking tarpaulins for damage, tears, and other problems;

(C) The parties responsible for checking and repairing tarpaulins;

(D) The minimum size of damage that will be repaired;

(E) The factors used to determine when tarpaulin repair will be conducted, including 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;

(F) The equipment/methods used to cut or perforate tarpaulins;

(G) The target dates for cutting/perforating tarpaulins; and

(H) The target dates for removing tarpaulins.

(4) TIF tarpaulins must not be cut/perforated until a minimum of 10 days (240 hours) have elapsed after the application is complete.

(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,” 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:

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

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

(3C) 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," 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) ~~is~~ are prohibited unless applied as a ~~broadcast fumigation~~ using a TIF tarpaulin that has been tested for permeability and determined by the U.S. Environmental Protection Agency to qualify for at least 60 percent buffer zone reduction credit 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.

(1) Nontarpaulin/Shallow/Broadcast or Bed.

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.

(A) Injection point must be at least 12 inches below 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) If using a tarpaulin that has been tested for permeability and determined by the U.S. Environmental Protection Agency to qualify for at least 60 percent buffer zone reduction credit, the tarpaulin must not be cut or perforated until a minimum of nine days following completion of injection to the application block.~~

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

~~(A) 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.

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

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 begin within 30 minutes of the completion of fumigation. A second post-fumigation water treatment must start 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 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.

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

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

~~(C) If using a tarpaulin that has been tested for permeability and determined by the U.S. Environmental Protection Agency to qualify for at least 60 percent buffer zone reduction credit, the tarpaulin must not be cut or perforated until a minimum of nine days following completion of injection to the application block.~~

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

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 begin within 30 minutes of the completion of fumigation. A second post-fumigation water treatment to the untarped areas must start 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 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 (e).~~

(5) Nontarpaulin/Deep/Broadcast.

(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.

(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 (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 must be placed and inspected for tears, holes, or improperly secured edges prior to fumigating. Repairs and adjustments must 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 (e).~~

~~(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 must 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 must 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.~~

~~(f) Notwithstanding subsection (d), the following field fumigation methods may be allowed:~~

~~(1) A new 1,3-Dichloropropene fumigation method approved pursuant to section 6448.3;~~

~~(2) a reduced volatile organic compound emission field fumigation method approved pursuant to section 6452; or~~

~~(3) 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, 14024 and 14102, Food and Agricultural Code. Reference: Sections 11501, 14006, 14024 and 14102, Food and Agricultural Code.

Adopt section 6448.3 to read:

6448.3. New 1,3-Dichloropropene Fumigation Methods.

(a) Notwithstanding section 6448.2(d), the Director may approve use of a 1,3-Dichloropropene field fumigation method not described in section 6448.2 based on the following criteria:

(1) The fumigation method has scientific data and information sufficient to estimate 1,3-Dichloropropene emissions;

(2) The results are valid as indicated by the quality control data; and

(3) The conditions studied represent agricultural fields fumigated.

(b) As part of the approval for a new field fumigation method, the Director shall estimate potential 1,3-Dichloropropene air concentrations using the emission data in subsections (a)(1) and (a)(2) to:

(1) determine the combinations of setback distance, application rate, and application block size that will result in a 1,3-Dichloropropene air concentration of no more than 55 parts per billion as a 72-hour time-weighted average;

(2) assign a field fumigation method code.

(c) The Director shall publish a notice of interim approval for a field fumigation method on the Department's Web site. The interim approval expires three years after the date of approval.

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 6448.4 to read:

6448.4. Annual 1,3-Dichloropropene Report.

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

(b) The 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 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-D 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 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 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.

Amend section 6449.1 to read:

6449.1. Chloropicrin Field Fumigation Methods.

(a) 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 6448.12. However within the San Joaquin Valley, Southeast Desert, or Ventura ozone nonattainment areas the methods described in the following sections are prohibited:

(1) 6447.3(a)(1),(2), and (6); and 6448.12(d)(1) and (5);

(2) 6448.12(d)(5), unless applied as alternating fumigated and unfumigated areas (strip fumigation) and the broadcast equivalent application rate must not exceed 210 pounds of chloropicrin per acre; and

(3) 6447.3 (a)(4), 6447.3(a)(3) and (5) if applied as alternating fumigated and unfumigated areas (strip fumigation), and 6448.12(d)(2) if applied as a bed fumigation unless a tarpaulin that has been tested for permeability and determined by the U.S. Environmental Protection Agency to qualify for at least 60 percent buffer zone reduction credit is used.

(b) 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.

(c) Notwithstanding subsection (a), 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 to read:

6452. Reduced Volatile Organic Compound Emissions Field Fumigation Methods.

(a) For the Sacramento Metro and South Coast ozone nonattainment areas, the Director may approve use of a field fumigation method not described in sections 6447.3, 6448.1~~2~~, 6449.1, 6450.1, 6450.2, and 6451.1 if the request is accompanied by scientific data documenting the volatile organic compound (VOC) emissions. The emission rating specified in section 6881 or the maximum emission rate (emission rating multiplied by the maximum broadcast equivalent application rate) must be no greater than any one of the methods for the same fumigant described in sections 6447.3, 6448.1~~2~~, 6449.1, 6450.1, 6450.2, and 6451.1.

~~(b) For the San Joaquin Valley, Southeast Desert, and Ventura ozone nonattainment areas, upon written request, the Director may approve use of a field fumigation method either not described or excluded from use in sections 6447.3, 6448.1, 6449.1, 6450.1, 6450.2, or 6451.1 if the request meets the following criteria:~~

(b) For the San Joaquin Valley, Southeast Desert, and Ventura ozone nonattainment areas, upon written request, the Director may approve use of a field fumigation method either not described or excluded from use in sections 6447.3, 6448.1~~2~~, 6449.1, 6450.1, 6450.2, or 6451.1 if the request meets the following criteria:

(1) The request is accompanied by scientific data documenting the VOC emissions;

(A) The emission rating, as specified in section 6881, is no greater than any one of the methods for the same fumigant allowed for use in the San Joaquin Valley, Southeast Desert, and Ventura ozone nonattainment areas as specified in sections 6447.3, 6448.1~~2~~, 6449.1, 6450.1, 6450.2, or 6451.1, or

(B) The maximum emission rate (emission rating multiplied by the maximum broadcast equivalent application rate) is no greater than any one of the methods for the same fumigant allowed for use in the San Joaquin Valley, Southeast Desert, and Ventura ozone nonattainment areas as specified in sections 6447.3, 6448.1~~2~~, 6449.1, 6450.1, 6450.2, or 6451.1.

(c) Criteria the Director shall consider includes whether:

(1) the data and information provided are sufficient to estimate emissions;

(2) the results are valid as indicated by the quality control data; and

(3) the conditions studied represent agricultural fields fumigated.

(d) The Director shall publish a notice of interim approval for a field fumigation method on the Department's Web site. The interim approval expires three years after the date of approval.

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 Volatile Organic Compound Emission Limits.

(a) 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 6881 for the Sacramento Metro, South Coast, Southeast Desert, and Ventura ozone nonattainment areas 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 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)
South Coast	3,200,000 lbs. (8.7 tons/day average)
Southeast Desert	340,000 lbs. (0.92 tons/day average)
Ventura	1,100,000 lbs. (3.0 tons/day average)

(1) If a VOC emission limit is in effect pursuant to (a) 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), 6448.1(d), 6449.1(a), 6450.1(d), or 6452 during the May 1 through October 31 time period.

(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), 6448.1~~2~~(d), 6449.1(a), 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 (a), unless their restricted material permit includes conditions specified in (c) or (d), or notice of intent is approved in writing.

(f) For the San Joaquin Valley ozone nonattainment area, if the difference between emissions in the most recent emissions inventory report and the 6,700,000 pound (18.1 tons per day) benchmark for this area is five percent or less of the benchmark or exceeds this benchmark during the May 1 through October 31 time period, the provisions of section 6884 shall apply.

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 2. WORK REQUIREMENTS
ARTICLE 1. PEST CONTROL OPERATIONS GENERALLY

Amend section 6624 to read:

6624. Pesticide Use Records.

(a) The following persons shall maintain records of pesticide use:

(1) Any person who uses a pesticide for an agricultural use as defined in Food and Agricultural Code section 11408, other than use on livestock as defined in Food and Agricultural Code section 18663;

(2) Any person who uses a pesticide listed in section 6400;

(3) Any person engaged for hire in the business of pest control;

(4) Any person who uses a pesticide for industrial post-harvest commodity treatment; and

(5) Any person who uses a pesticide listed in section 6800(b) for any outdoor institution or outdoor industrial use.

(b) The records shall include the following information for each pest control operation:

(1) Date and time of the application;

(2) Name of the operator of the property treated;

(3) Location of property treated;

(4) Crop commodity, or site treated;

(5) Total acreage or units treated at the site; and

(6) Pesticide, including the U.S. Environmental Protection Agency (U.S. EPA) or State registration number which is on the pesticide label, and amount used.

(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) Method of application;

(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,” hereby incorporated by reference.

(d) The operator of the property which is producing an agricultural commodity shall maintain records of pesticides applied by an agricultural pest control business to such property, by site.

(e) In addition to the information required in (b), persons engaged for hire in the business of pest control at a school site [defined in Education Code section 17609(e)] shall include in the records the following information for each pest control operation:

(1) Time application was completed;

(2) Name and address of the school site; and

(3) Application location at the school site. For purposes of this subsection, location includes, but is not limited to, classrooms, playgrounds, cafeteria, vehicles, and athletic fields.

(f) In addition to the information required in subsections (b) and (c), persons who use methyl bromide, 1,3-Dichloropropene, chloropicrin, metam-sodium, N-methyl dithiocarbamate (metam-potassium), dazomet, or sodium tetrathiocarbonate field fumigants within the Sacramento Metro, San Joaquin Valley, South Coast, Southeast Desert, or Ventura ozone nonattainment areas shall include in the records a description of the method of application pursuant to sections 6446.1, 6447.3, 6448.1~~2~~, 6449.1, 6450.1, 6450.2, 6451.1, or 6452.

(g) The records required pursuant to this section shall be retained for two years and made promptly available to the director or commissioner upon request.

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.

(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 a 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) 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 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 shall include the information specified in 6624(f) in addition to that required by this section.

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

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

(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,” 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.

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.

CHAPTER 4. ENVIRONMENTAL PROTECTION
SUBCHAPTER 2. AIR
ARTICLE 2. VOLATILE ORGANIC COMPOUNDS

Amend section 6881 to read:

6881. 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 emissions 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 (4);

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

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

(4) establish an emission rating for each field fumigation method described in sections 6446.1, 6447.3, 6448.1~~2~~, 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;

(5) establish prohibitions on high-VOC nonfumigant products pursuant to section 6452.2(f), and if applicable, determine if prohibitions pursuant to section 6884(c) remain in effect;

(6) establish a list of the nonfumigant products that are designated as low-VOC pursuant to section 6880;

(7) establish a list of the actively registered nonfumigant products that are designated as high-VOC pursuant to section 6880.

(b) A draft emissions 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 Volatile Organic Compound Emissions Inventory Report. The emissions report will be posted on the Department's Web site.

(c) Low-VOC agricultural use products registered after the release of the Annual VOC Emissions Inventory Report and contain abamectin, chlorpyrifos, gibberellins, or oxyfluorfen as the primary active ingredient, will be listed in a supplemental report and posted on the Department's Web site. The products designated as low-VOC will be based upon the criteria established in section 6880.

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