



Department of Pesticide Regulation



Mary-Ann Warmerdam
Director

MEMORANDUM

Arnold Schwarzenegger
Governor

TO: James Goldstene
Executive Officer
Air Resources Board
1001 I Street
Sacramento, California 95814

MaryLou Verder-Carlos
for

FROM: Christopher W. Reardon
Chief Deputy Director
916-445-4000

DATE: October 5, 2009

SUBJECT: FUMIGANT VOLATILE ORGANIC COMPOUND REGULATIONS

On April 20, 2009, the Department of Pesticide Regulation (DPR) finalized revisions to California's regulations restricting fumigant Volatile Organic Compound emissions (Fumigant Regulations). The Fumigant Regulations support DPR's State Implementation Plan (SIP) commitments.

The actions taken to adopt the regulations were part of three rulemaking actions related to the reduction of fumigant emissions. DPR is requesting the Air Resources Board submit to the U.S. Environmental Protection Agency (U.S. EPA) the portions of those regulations that are needed to meet DPR's SIP commitment. These sections include and are limited to:

- Title 3, California Code of Regulations (3 CCR) sections 6447 (first paragraph only) and 3 CCR sections 6447.3–6452 pertaining to field fumigation methods.
- 3 CCR sections 6452.1 and 6452.4 and 3 CCR sections 6624–6626 pertaining to the emission inventory.
- Portions of 3 CCR sections 6452.2 and 6452.3 pertaining to field fumigation limits and allowances only as applicable to the Ventura ozone nonattainment area. DPR does not believe the portions of 3 CCR sections 6452.2 and 6452.3 that apply to the other nonattainment areas are necessary to meet our SIP obligations and is not submitting portions of those sections that apply to the other nonattainment areas to U.S. EPA.

On January 28, 2008, the Air Resources Board submitted to U.S. EPA the initial version of these regulations. The January 28, 2008, submittal included regulatory language that is outdated or that is not intended to be included in the SIP. The Fumigant Regulations being submitted today include only the sections identified above and replace the January 28, 2008, submittal in its entirety.



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The fumigant regulations and documents required under Title 40, Code of Federal Regulations section 51.102 are enclosed. At your convenience, please submit these documents to U.S. EPA for inclusion into California's SIP for ozone.

For your convenience, this package includes hard copies and electronic copies on CD-ROM of the following for transmittal to U.S. EPA:

Enclosure 1: A copy of regulations from the following sections from 3CCR for inclusion in California's SIP, including and limited to:

- 3 CCR sections 6447 (first paragraph only) and 3 CCR sections 6447.3–6452 pertaining to field fumigation methods.
- 3 CCR sections 6452.1 and 6452.4 and 3 CCR sections 6624–6626 pertaining to the emission inventory.
- Portions of 3 CCR sections 6452.2 and 6452.3 pertaining to field fumigation limits and allowances only as applicable to the Ventura ozone nonattainment area. DPR does not believe the portions of 3 CCR sections 6452.2 and 6452.3 that apply to the other nonattainment areas are necessary to meet our SIP obligations and is not submitting portions of those sections that apply to the other nonattainment areas to U.S. EPA.

Enclosure 2: Copies of newspaper advertisements in the areas affected showing that the public was given more than 30-day notice of hearings.

Enclosure 3: Statement of Randy Segawa Regarding Public Notice for the Development of Regulations Relating to the Adoption of California's Fumigation Regulations.

Enclosure 4: A copy of the rulemaking file for the first set of regulations. The documents listed below are included in the rulemaking file. Documents that are not part of the submittal to U.S. EPA are so noted.

- Notice of proposed rulemaking.
- Text of regulations originally noticed to the public.
- Initial statement of reasons.
- Economic and fiscal impact statement—not part of the submittal.
- Correspondence with the Department of Finance regarding proposed regulations—not part of the submittal.
- Correspondence with the Office of Environmental Health Hazard Assessment.
- Correspondence with the Department of Industrial Relations.
- Correspondence with the University of California.
- Correspondence with the California Department of Food and Agriculture.
- Statement of mailing notice.

- Notice of modifications to the text of proposed changes in the regulations pertaining to field fumigant emission reduction; and modified text of proposed regulations.
- Notice of addition of documents to the rulemaking file.
- Statement of mailing of 15-day notice.
- Letters of request for public hearing or extension of 15-day comment period.
- Updated informative digest.
- Text of final regulations—only the portions included in Enclosure 1 are for U.S. EPA approval.
- Final statement of reasons.
- Comments received during the 45-day public comment period.
- Public hearing transcripts.
- Comments received during the 15-day comment period.
- Documents relied upon—not part of the submittal.

Enclosure 5: A copy of the rulemaking file for the second set of regulations. The documents listed below are included in the rulemaking file. Documents that are not part of the submittal to U.S. EPA are so noted.

- Notice of proposed rulemaking.
- Text of regulations originally noticed to the public.
- Initial statement of reasons.
- Economic and fiscal impact statement not part of the submittal.
- Correspondence with the Department of Finance regarding proposed regulations—not part of the submittal.
- Correspondence with the California Department of Food and Agriculture
- Statement of mailing notice.
- Letters of request for public hearing or extension of 45-day comment period and response.
- Written comments received during the 45-day public comment period.
- Public hearing transcripts.
- Notice of modifications to the text of proposed changes in the regulations pertaining to field fumigant emission limits; and modified text of proposed regulations.
- Statement of mailing 15-day notice.
- Written comments received during the 15-day comment period.
- Notice of addition of documents to rulemaking file.
- Statement of mailing second 15-day notice.
- Written comments received during the second 15-day comment period.
- Updated informative digest.

- Text of final regulations—only the portions included in Enclosure 1 are for U.S. EPA approval.
- Final statement of reasons.
- Documents relied upon—not part of the submittal.

Enclosure 6: A copy of the rulemaking file for the third set of regulations. The documents listed below are included in the rulemaking file. Documents that are not part of the submittal to U.S. EPA are so noted.

- Notice of proposed rulemaking.
- Text of regulations originally noticed to the public.
- Initial statement of reasons.
- Economic and fiscal impact statement—not part of the submittal.
- Correspondence with the Department of Finance regarding the proposed regulations—not part of the submittal.
- Correspondence with the California Department of Food and Agriculture.
- Statement of mailing notice.
- Letters of request for public hearing or extension of 45-day comment period and response.
- Written comments received during the 45-day public comment period.
- Public hearing transcripts.
- Notice of addition of documents.
- Notice of modifications to the text of proposed changes in the regulations pertaining to field fumigant emission limits; and modified text of proposed regulations.
- Statement of mailing 15-day notice.
- Written comments received during the 15-day comment period.
- Updated informative digest.
- Text of final regulations—only the portions included in Enclosure 1 are for U.S. EPA approval.
- Final statement of reasons.
- Documents relied upon—not part of the submittal.

If you have any questions, please feel free to contact me or Mr. Randy Segawa, of my staff, at 916-324-4137.

cc: Mary-Ann Warmerdam, DPR Director (w/o Enclosures)
Randy Segawa, DPR Environmental Program Manager (w/o Enclosures)