

# REGULATORY UPDATES

Andy Calderwood

Deputy Agricultural Commissioner

Ventura County

# Topics

- New Regulations
- TIF Tarp Markings

# Upcoming Changes in Pesticide Regulations

## Neonicotinoid Pesticide Exposure Protection

Filed with Secretary of State **April 2023**

Effective **2024**

## Certification and Training

Filed with Secretary of State **June 2023**

Effective **2024**

## Health Risk Mitigation and Volatile Organic Compound Emission Reduction for 1,3-Dichloropropene

2<sup>nd</sup> 15-Day comment period ended **10 Aug 2023**

Effective **2024 (proposed)**

## Pesticide Decontamination Sites

Hearing **17 May 2023**

Effective **2024 ?**

# Neonicotinoid Pesticide Exposure Protection

These regulations are adopted and take effect 1 Jan 2024.

Neonicotinoid Pesticide  
Exposure Protection

Purpose

to  
Protect  
Pollinator  
Health



# Neonicotinoid Pesticide Exposure Protection

## Scope

Certain Neonicotinoids:

Clothianidin

Dinotefuran

Imidacloprid

Thiamethoxam

Production Ag for Food /  
Feed



# Main Ventura Crop Groups Affected

◆ Berries

◆ Citrus

◆ Cucurbit vegetables

◆ Fruiting vegetables

◆ Herbs

◆ Leafy vegetables

◆ Brassica

◆ Root and tuber vegetables

◆ Tropical and subtropical  
fruit

◆ Globe artichoke

# Vta Co Neonicotinoid Use in Berries

Actara  
Admire Pro  
Montana



# How Proposed Regulations Mitigate Neonicotinoid Use

- ◆ Rate Restrictions
- ◆ Timing Restrictions
- ◆ Seasonal Rate Caps

# How Proposed Regulations Mitigate Neonicotinoid Use

Proposed regulations put each crop into one of three categories:

- ◆ Highly Attractive to bees;
- ◆ Moderately Attractive to bees; or
- ◆ Not Attractive to bees or Harvested Before Bloom.

# How Proposed Regulations Mitigate Neonicotinoid Use

If Crop is Highly Attractive to bees, there will be:

- ◆ Rate Restrictions
- ◆ Timing Restrictions
- ◆ Seasonal Rate Caps

# How Proposed Regulations Mitigate Neonicotinoid Use

If Crop is Moderately Attractive to bees, there will be:

- ◆ Rate Restrictions
- ◆ Timing Restrictions
- ◆ Seasonal Rate Caps *only with Managed Pollinators*

# How Proposed Regulations Mitigate Neonicotinoid Use

If Crop is Not Attractive to bees or  
Harvested Before Bloom, there will be:

◆ No Additional Restrictions

# Proposed Neonicotinoid Regulations Example

## Section 6990.8. Neonicotinoid Use on Leafy Vegetables Including Brassica (Cole) Crop Groups

When crops in the leafy vegetables, brassica (cole), stalk, and stem crop groups are harvested before bloom, an application of a neonicotinoid to these crops is not subject to the provisions of this article. Otherwise, an application of a neonicotinoid to these crops is prohibited.





# Proposed Neonicotinoid Regulations Example

## Section 6990.1. Neonicotinoid Use on Berries and Small Fruits Crop Groups

- a) Application of a neonicotinoid is prohibited during bloom.
- b) If both soil and foliar application methods are used on the same crop, or if multiple neonicotinoid active ingredients are applied to the same crop, a total maximum combined application rate of 0.3 lbs. ai/A/season may be applied provided that: (1) Soil application rate must not exceed 0.2 lbs. ai/A/season; and (2) Foliar application rate must not exceed 0.1 lbs. ai/A/season.
- c) ...if managed pollinators will be used during the growing season, application of a neonicotinoid is prohibited.

# Proposed Neonicotinoid Regulations

## Example

### Section 6990.4. Neonicotinoid Use on Citrus Fruit Crop Groups

a) Application of a neonicotinoid is prohibited during bloom.

b) If both soil and foliar application methods are used on the same crop, or if multiple neonicotinoid active ingredients are applied to the same crop, a total maximum combined application rate of 0.422 lbs. ai/A/season may be applied provided that: (1) Soil application rate must not exceed 0.25 lbs. ai/A/season; and (2) Foliar application rate must not exceed 0.172 lbs. ai/A/season.

c) The application rate and timing restrictions listed in the following table apply in addition to the limitations in subsections (a) and (b):

<u>Application Rate and Timing Restrictions for Crops in the Citrus Fruit Crop Group</u>				
<u>Active Ingredient</u>	<u>Soil Application</u>		<u>Foliar Application</u>	
	<u>Maximum Application Rate</u>	<u>Required Timing</u>	<u>Maximum Application Rate</u>	<u>Required Timing</u>
<u>Clothianidin</u>	<u>0.2 lbs. ai/A/season</u>	<u>Apply only between petal fall and September 17</u>	<u>0.172 lbs. ai/A/season</u>	<u>Apply only between petal fall and November 20</u>
<u>Dinotefuran</u>	<u>0.172 lbs. ai/A/season</u>	<u>Apply only between petal fall and February 10</u>	<u>0.172 lbs. ai/A/season</u>	<u>Apply only between petal fall and November 20</u>
<u>Imidacloprid</u>	<u>0.25 lbs. ai/A/season</u>	<u>Apply only between petal fall and December 6</u>	<u>0.172 lbs. ai/A/season</u>	<u>Apply only between petal fall and November 20</u>
<u>Thiamethoxam</u>	<u>0.172 lbs. ai/A/season</u>	<u>Apply only between petal fall and February 10</u>	<u>0.172 lbs. ai/A/season</u>	<u>Apply only between petal fall and November 20</u>



## Proposed Neonicotinoid Regulations Exceptions

- ❖ Enclosed space, insect exclusionary structure, or insect exclusionary netting if:
  - ❖ Covered for entire bloom
  - ❖ No managed pollinators
- ❖ Local emergency
  - ❖ Gov Code 8630
  - ❖ CDFA
  - ❖ USDA
- ❖ Treating quarantine pest (CDFA or USDA)
  - ❖ Must have PCA Rec

# PROPOSED REGULATIONS CERTIFICATION and TRAINING

## SCOPE

- ◆ Licensing
- ◆ Training
- ◆ Supervision Standards

# Background

March 6, 2017

USEPA Revised 40 CFR Part 171:

To enhance protections to individuals  
using Restricted Use Pesticides

# PROPOSED REGULATIONS CERTIFICATION and TRAINING HIGHLIGHTS

- ◇ “Private Applicator” only applies to production ag
- ◇ Fumigant use supervised by “Certified Commercial Applicators” only
  - ◇ Exception: “Burrowing Vertebrate Pests”
  - ◇ New Private Applicator Certificate “Burrowing Vertebrate Pests” Exam
- ◇ Permit application requires categories of Certified Applicator
- ◇ Categories defined in Code of Regulations
- ◇ New: L Soil Fumigation, M Non-Soil Fumigation
- ◇ Dealer can sell only to Certified Applicator with appropriate category
- ◇ Direct Communication Required between Certified Applicator and supervised applicator

# Commercial Applicator Fumigation Categories

- Soil Fumigation – Category L

- For individuals who perform pest control using a pesticide labeled as a fumigant to:
  - Control soil pests in sites including fields, forests, golf courses, greenhouses, and individual tree or vine hole sites
  - Does not include the use of non-soil fumigant products

- Non-Soil Fumigation – Category M

- For individuals who perform pest control using a pesticide labeled as a fumigant to:
  - Fumigate enclosed areas.
  - Fumigate pest burrows in sites including, but not limited to fields, rights-of-way, ditches, landscaping, and equipment yards.
  - Fumigate sewer lines, in-service utility poles, or other fumigations not covered by the new Category L – Soil Fumigation.

*\* For complete category descriptions, see the proposed regulations.*

# QAL / QAC License Transition

3CCR 6500. License Duration.

- ◆ A through L expire even numbered year
- ◆ M through Z expire odd numbered year
- ◆ January 1, 2024: A through L **issued updated license** certificate with new categories, including removal of inactive subcategories.

# New Handler Training Requirements

(23) How to identify if a product is either a federal Restricted Use Pesticide or a California restricted material specified in section 6400, and that federal Restricted Use Pesticides and California restricted materials shall be used only by a certified private or commercial applicator or by an individual working under the direct supervision of a certified applicator;

# New Handler Training Requirements

- (24) When any RM is used by a noncertified applicator, training must cover:
- (A) Where to identify on label if product requires certified applicator to be present
  - (B) Certified applicator's responsibility to provide instructions specific to the site and pesticide(s) prior to use, including: 1. Pesticide product labeling directions, precautions, and requirements applicable to specific use and site; and 2. How characteristics of use site and the conditions of application might increase or decrease risk of adverse effects.
  - (C) Requirement for each employee to be able to immediately communicate directly with supervising certified applicator as specified in Section 6731.

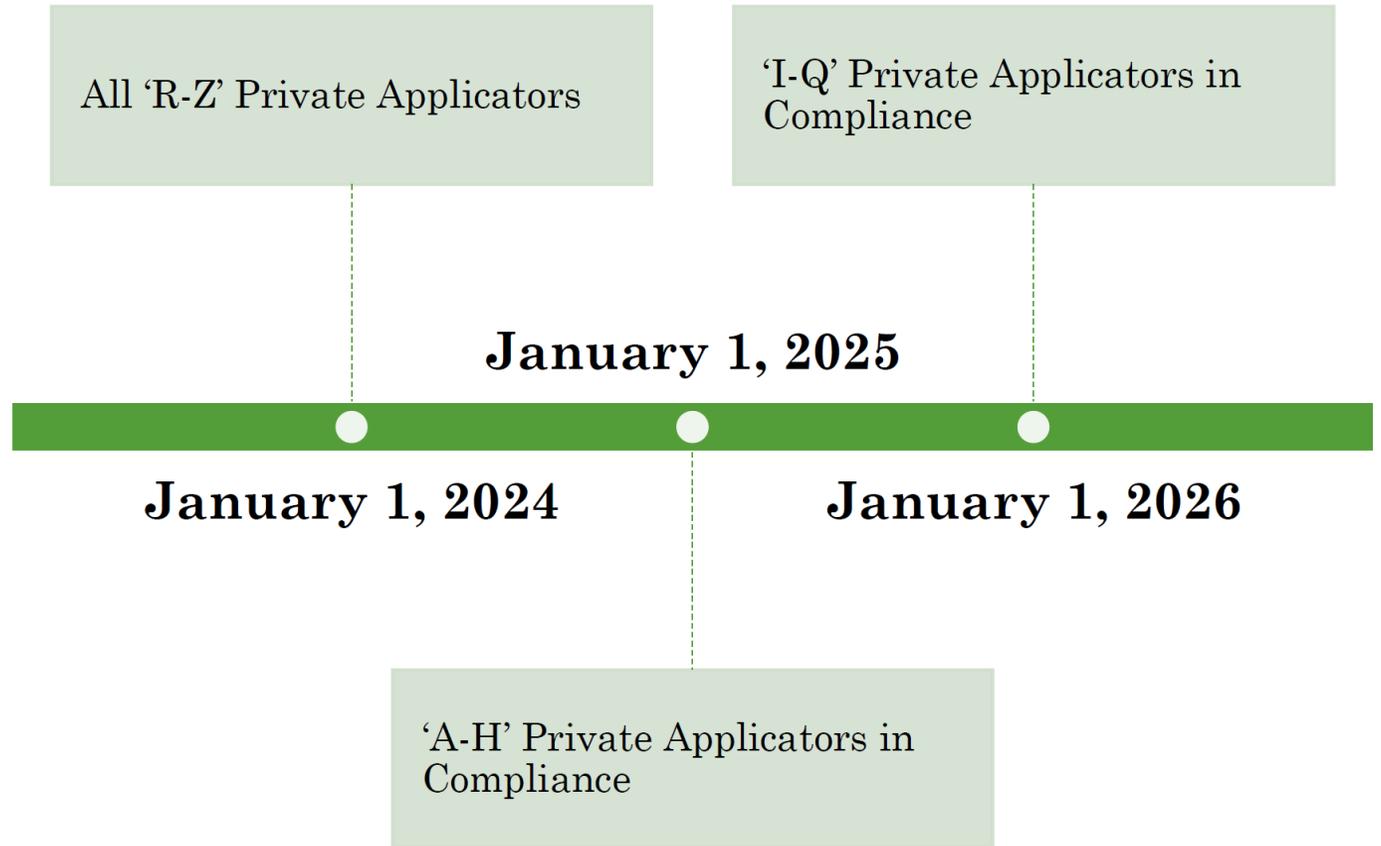
# Private Applicator Certificate Examination (initial) continued

## Impact

- All private applicators currently certified will need to take the revised PAC (initial) examination that includes revised competency standards
- **Taking this examination is not optional**, renewing through continuing education will not be an option until an individual has taken and passed the revised PAC (initial) examination that includes revised competency standards
- This will be required at a private applicators time of renewal and will occur over a three-year period as follows:
  - By January 1, 2024 – PAC w/ last names ‘R-Z’
  - By January 1, 2025 – PAC w/ last name ‘A-H’
  - By January 1, 2026 – PAC w/ last name ‘I-Q’

NEW EXAM is available for applicants to meet the new competencies

# Timeline – Private Applicator Compliance



# New Private Applicator Burrowing Vertebrate Pest Certificate Option

-Limitation of Fumigant Activities  
Conducted Under a Private Applicator  
Certificate



# New Private Applicator Burrowing Vertebrate Pest Fumigation Certificate Option continued

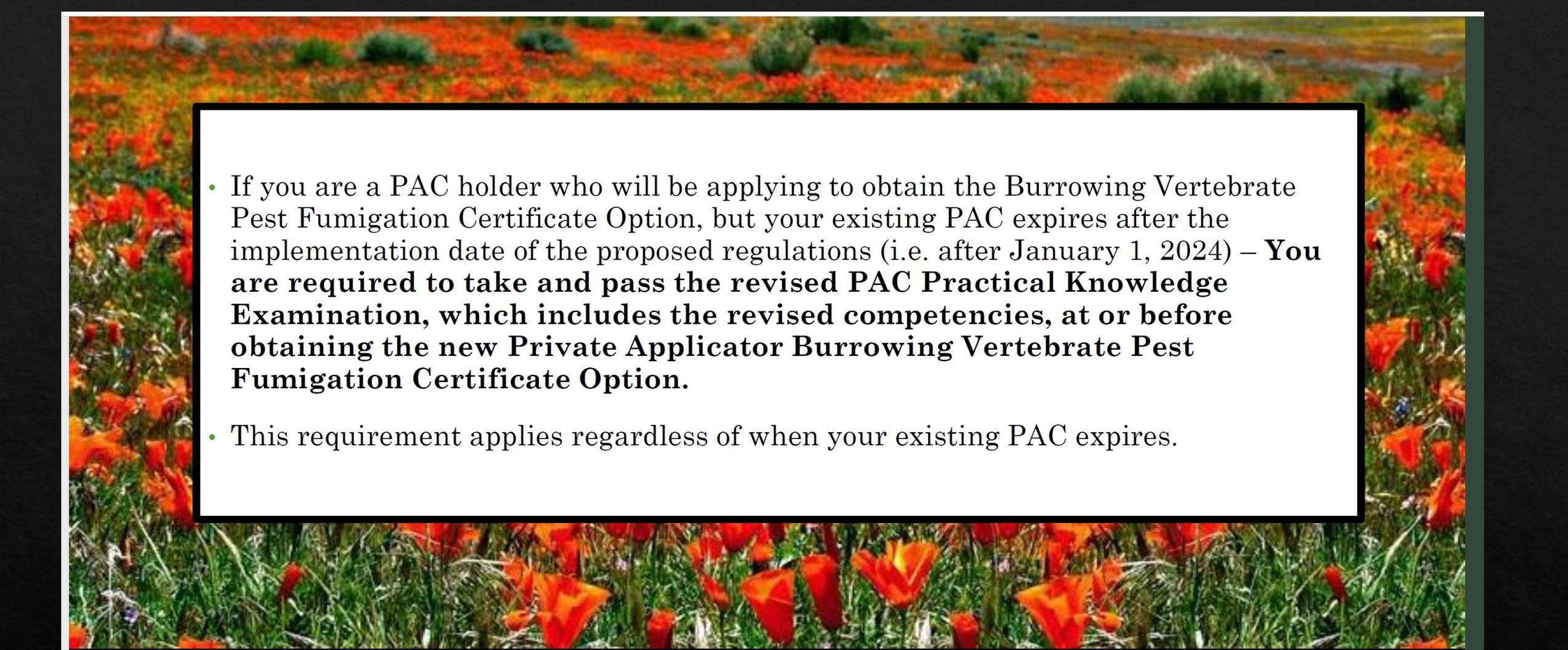


- This certificate option allows PAC holders to use fumigants labeled for the control of burrowing vertebrate pests
- All other fumigant activities will require a private applicator to obtain a commercial applicator certification in the appropriate category(ies) (i.e. non-soil or soil fumigation)
- This ensures that individuals using fumigant products are knowledgeable in the safe and effective use of these hazardous products

# New Private Applicator Burrowing Vertebrate Pest Fumigation Certificate Option

## Impact

- All private applicators using fumigant products will need to obtain the appropriate certifications for their fumigant use activities upon implementation of the proposed regulations
  - Private applicators using fumigants labeled for the control of burrowing vertebrate pests may obtain the new private applicator certificate option in 'Burrowing Vertebrate Pest Control'
    - This must be obtained by January 1, 2024 to remain in compliance
  - Private applicators who intend to use any other type of fumigant product *other than those labeled for the control of burrowing vertebrate pests* must obtain a commercial applicator certificate in the appropriate fumigant use category(ies)
    - This must be obtained by January 1, 2024 to remain in compliance

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- If you are a PAC holder who will be applying to obtain the Burrowing Vertebrate Pest Fumigation Certificate Option, but your existing PAC expires after the implementation date of the proposed regulations (i.e. after January 1, 2024) – **You are required to take and pass the revised PAC Practical Knowledge Examination, which includes the revised competencies, at or before obtaining the new Private Applicator Burrowing Vertebrate Pest Fumigation Certificate Option.**
  - This requirement applies regardless of when your existing PAC expires.

## Important Clarification: PAC Examinations

# 'Householder' – 3 CCR Definition

## Impact

- Private applicators who currently conduct 'householder' activities under a PAC must obtain a commercial applicator license or certificate in the appropriate use category(ies) based on application setting
- If applicable, this commercial applicator certificate must be obtained by January 1, 2024 to remain in compliance

"Private applicator" means:

(a) an individual who uses or supervises the use of a pesticide for the purpose of producing an agricultural commodity as defined by Title 40 Code of Federal Regulations, Section 171.2(a)(5) (July 1, 2013) on property owned, leased, or rented by him/her or his/her employer; or

~~(b) a householder who uses or supervises the use of a pesticide, outside the confines of a residential dwelling for the purpose of controlling ornamental, plant or turf pests on residential property owned, leased, or rented by that householder.~~

# Certified Commercial Applicator

6504. Examinations.

(a) Each applicant shall:

(1) Appear at a time and place designated by the Director

(2) Present **government-issued photo ID**

(b) Applicants must be able to **read pesticide labeling** and pass **written exam** on pesticide laws and regs and precautions to prevent injury.

# Certified Commercial Applicator

Elimination of existing Subcategories

- ◆ Wood Preservation –Subcategory L
- ◆ Anti-Fouling Tributyltin –Subcategory M
- ◆ Sewer Line Root Control –Subcategory N
- ◆ Field Fumigation –Subcategory O
- ◆ Microbial Pest Control –Subcategory P

# Commercial Applicator Restricted Material Use Records.

## 3CCR 6624.5

RM use must record:

- (a) Address of person RM used for
- (b) Name and license number of Certified Commercial Applicator
- (c) Name of Noncertified Applicators using RM
- (d) Address where handler training records kept

# Supervision Standards

Certified applicator supervising noncertified applicator using RM shall:

- ◆ (1) Have **practical knowledge** of applicable requirements
- ◆ (2) Verify **training records**
- ◆ (3) Provide **instructions** specific to site and pesticides used, including
  - ◆ (A) **Label** directions, precautions, and requirements
  - ◆ (B) How **site characteristics** and application conditions affect risk
- ◆ (4) Be **aware** of conditions at site
- ◆ (5) Be **available** to direct and control applications

# Use Limitations

3CCR 6404

(a) Restricted materials listed in section 6400 shall only be used by or under the direct supervision of a certified private or commercial applicator operating within the scope of the individual's certification.

# Use Limitations

3CCR 6404

(b) A certified private or commercial applicator who **does not possess the category, branch, or type** of certification required shall operate under the direct supervision of a certified private or commercial applicator who does.

# Use Limitations

3CCR 6404

(c) Except as in (d), fumigants shall only be used by or under direct supervision of a certified commercial applicator.

# Employee Communication (RM Use)

3CCR 6731.

...employer shall ensure a means for the employee to immediately communicate with the certified applicator supervising...

This...may be in person or by voice, two-way radio, cell phone, video conference or other similar means of **direct communication**. Text messaging, e-mail, voicemail, and other means of indirect communication do not meet the requirement...

# Employee Communication



# PROPOSED MITIGATIONS

## 1, 3-DICHLOROPROPENE

# Effect of Proposed Action on 1, 3-D Use

- Allows use only for production agriculture
- Mandates setbacks from occupied structures
- Limits application rate and acres treated
- Restricts multiple field soil fumigations near each other
- Limits application methods, including tarp criteria
- Requires DPR Annual report on use and air monitoring results
- Requires new information in use records and PURs.

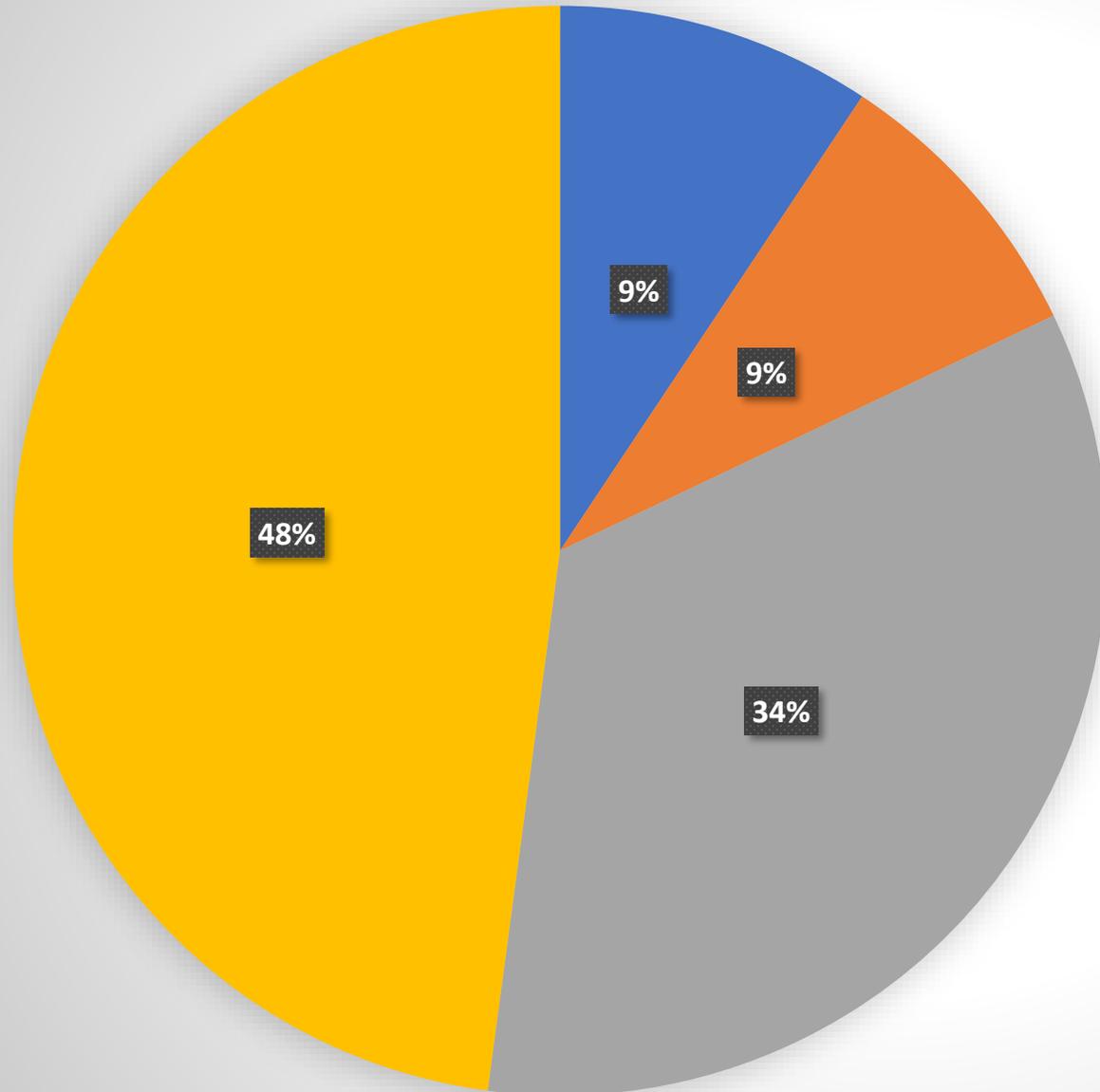
# Soil Moisture Requirement 1, 3-D Proposed Mitigations

- 50% of Field Capacity at 3-9" depth
- 3 methods allowed
- Chemigation Excluded

Feel &  
Appearance



## Acres by Method –Ventura Co 2019



- 1206 Nontarp/ Deep /Broadcast (w/Pic)
- 1209 Chemigation/ Tarp
- 1242 tarp/ Shallow/ Broadcast (TIF)
- 1259 Chemigation/ Tarp (TIF)

6c. March–October applications in Coastal counties for FFM 1242, 1247, and 1249. Round up to nearest setback distance and application rate.

Broadcast Equivalent a.i. App Rate	Occupied Structure Setback Distance				
	100 ft	200 ft	300 ft	400 ft	500 ft
80 lbs/ac	80 ac	---*	---	---	---
90 lbs/ac	80 ac	---	---	---	---
100 lbs/ac	80 ac	---	---	---	---
110 lbs/ac	80 ac	---	---	---	---
120 lbs/ac	80 ac	---	---	---	---
130 lbs/ac	80 ac	---	---	---	---
140 lbs/ac	80 ac	---	---	---	---
150 lbs/ac	80 ac	---	---	---	---
160 lbs/ac	80 ac	---	---	---	---
170 lbs/ac	80 ac	---	---	---	---
180 lbs/ac	80 ac	---	---	---	---
190 lbs/ac	80 ac	---	---	---	---
200 lbs/ac	80 ac	---	---	---	---
210 lbs/ac	80 ac	---	---	---	---
220 lbs/ac	80 ac	---	---	---	---
230 lbs/ac	80 ac	---	---	---	---
240 lbs/ac	80 ac	---	---	---	---
250 lbs/ac	80 ac	---	---	---	---
260 lbs/ac	80 ac	---	---	---	---
270 lbs/ac	80 ac	---	---	---	---
280 lbs/ac	80 ac	---	---	---	---
290 lbs/ac	80 ac	---	---	---	---
300 lbs/ac	80 ac	---	---	---	---
310 lbs/ac	80 ac	---	---	---	---
320 lbs/ac	80 ac	---	---	---	---
332 lbs/ac	80 ac	---	---	---	---

\*--- indicates that the occupied structure distance is not applicable because a shorter distance is sufficient for a maximum application block of 80 ac.

7a. March–October applications in Inland counties for FFM 1243, 1245, and 1248, and 1259. Round up to nearest setback distance and application rate.

Broadcast Equivalent a.i. App Rate	Occupied Structure Setback Distance				
	100 ft	200 ft	300 ft	400 ft	500 ft
80 lbs/ac	80 ac	---*	---	---	---
90 lbs/ac	80 ac	---	---	---	---
100 lbs/ac	80 ac	---	---	---	---
110 lbs/ac	80 ac	---	---	---	---
120 lbs/ac	80 ac	---	---	---	---
130 lbs/ac	80 ac	---	---	---	---
140 lbs/ac	80 ac	---	---	---	---
150 lbs/ac	80 ac	---	---	---	---
160 lbs/ac	80 ac	---	---	---	---
170 lbs/ac	80 ac	---	---	---	---
180 lbs/ac	80 ac	---	---	---	---
190 lbs/ac	80 ac	---	---	---	---
200 lbs/ac	80 ac	---	---	---	---
210 lbs/ac	80 ac	---	---	---	---
220 lbs/ac	80 ac	---	---	---	---
230 lbs/ac	80 ac	---	---	---	---
240 lbs/ac	80 ac	---	---	---	---
250 lbs/ac	80 ac	---	---	---	---
260 lbs/ac	80 ac	---	---	---	---
270 lbs/ac	70 ac	80 ac	---	---	---
280 lbs/ac	60 ac	80 ac	---	---	---
290 lbs/ac	55 ac	80 ac	---	---	---
300 lbs/ac	50 ac	80 ac	---	---	---
310 lbs/ac	45 ac	80 ac	---	---	---
320 lbs/ac	40 ac	70 ac	80 ac	---	---
332 lbs/ac	35 ac	65 ac	80 ac	---	---

\*--- indicates that the occupied structure distance is not applicable because a shorter distance is sufficient for a maximum application block of 80 ac.

# Decontamination Proposed Regulations

- Non-Ag requirements mirror Ag
- ANSI Z358.1-2014 eyewash standard



# Decontamination

ANSI Z358.1-2014 Eyewash Standard

<https://cdn.shopify.com/s/files/1/0320/3232/5768/files/eyewash-ansi-2015.pdf?v=1599663073>

- Tepid Water
- Training
- Weekly Testing
- 15 Minutes @ 0.4 gal/min
- 1-Second Activation
- Hands Free

## ANSI Eyewash Z358.1-2014 In-Depth Compliance Guide

Current Edition As Of 2015

The ANSI Z358.1-2014 standard establishes a universal minimum performance and use requirements for all eyewash and drench shower equipment used for the treatment of the eyes, face, and body of a person who has been exposed to hazardous materials and chemicals. The ANSI Z358.1 eyewash standard was first implemented in 1981. The standard was modified in 1990, 1998, 2004, 2009, and 2014. Equipment that falls under this standard includes drench showers, eyewash, eye/face wash, portable eyewash, and combination eyewash & drench shower units. The ANSI Z358.1 standard also covers equipment performance and use requirements for personal wash units and drench hoses, which are considered to be supplemental equipment to emergency eyewash and drench shower units. In addition to performance and use requirements, the ANSI Z358.1 standard also provides uniform requirements for testing procedures, employee training, and maintenance of flushing equipment.



# TIF Tarps Must be Marked by Manufacturer

- Unmarked Tarps will not be considered to be Totally Impermeable Film (TIF)

