Imperial County Pesticide Use Enforcement

Work Plan for 2014, 2015, and 2016 Calendar Years

By
Department of Pesticide Regulation
&
Imperial County Agricultural Commissioner

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Imperial County Pesticide Use Enforcement Work Plan

Calendar Years 2014, 2015, and 2016

County Program:

The Imperial County Agricultural Commissioner's Pesticide Use Enforcement Work Plan has been developed using the California Department of Pesticide Regulation (CDPR) Enforcement Letter, ENF 08-18, Pesticide Use Enforcement Program Planning and Evaluation Guidance. This document identifies core program priorities, available resources, and staffing availability. Each program component will be evaluated on a quarterly basis to assess performance success, address any program deficiencies, and make necessary adjustments to successfully accomplish stated goals.

Program Highlights/Accomplishments:

Community/Public Outreach – Targeted Groups:

Fieldworkers –
Work with local and state Task Forces to identify information and needed training, assist in educating target group on knowledge of pesticide effects, safety, and incident reporting. Provide DPR's emergency exposure information, fact sheets, and community guide.

Schools & Children's Fairs –
Reach school age children to inform them of the importance to read and follow pesticide labels. Provide DPR's safe use fact sheets for children to take home to their parents to help ensure safe and proper use of pesticides in and around their homes and for the environment. Provides an additional means to provide information to families, farm workers, and other community members.

Farmer's Markets & Community Events –
Community outreach at our local Farmer's Markets and other County wide public events such as community street fairs, parades, celebrations, and the like. Provide DPR's safe pesticide information, use fact sheets, community guide, and endangered species information.

Industry Outreach:

Presentations at group meetings and seminars for permit holders, applicators, advisors, and agricultural workers; support the industry in stressing regulatory requirements and compliance.

Expected Program Changes:

Due to continuing staffing rotations and turnover, inspection frequency will be monitored closely and adjusted to address availability of inspectors.

County Resources:

Personnel -

1 - Deputy Commissioner - 100%

1 - Agricultural Biologist IV - 100%

2 - Agricultural Biologists III - 90% (10% is utilized in other programs)

1 - Agricultural Biologists II - 100%

2 - Agricultural Biologists I - 100%

1 - Clerical Position - 100%

1 - Data Entry Operator - 100%

Assets -

Each inspector has a vehicle for his/her exclusive use.

IMP CAC uses the Permitting/Use Reporting program developed by DPR, Cal Ag Permits (CAPs), and will query this data base for statistics and public information searches.

IMP CAC will continue to implement the training and use of the new CAPs permit/PUR reporting system. This system will help streamline the PUR system to be more accurate and efficient, while shifting more PUR entry to growers and pest control businesses.

IMP CAC uses the Secure Access Website (SAW) online platform to receive and send electronic investigative files to and from the Worker Health and Safety (WHS) Branch and the Enforcement (ENF) Branch.

IMP CAC has six (6) dedicated workstations for issuing restricted materials permits, connected to a dedicated server for pesticide use enforcement.

All inspectors have PCs available to access email, as well as Internet access to DPR and pesticide label websites.

IMP CAC has one (1) district office in Brawley, California, which is open on a limited-hours basis for acceptance of permit applications, amendments, and registrations. An additional satellite office in Winterhaven, California is open on the last Tuesday of each month and on an "as needed" basis. Inspectors schedule time to make targeted and random inspections in that area on a monthly basis.

Expected Workload:
(Actual 2012 and 2013)

Restricted Materials Permits:
(2012 = 1235 2013 = 1565) 2014- 2016 = 1500 annually

Notices of Intent Approved:
(2012 = 3913 2013 = 3089) 2014 - 2016 = 3100 annually

Non-Restricted Operator IDs:
(2012 = 92 2013 = 84) 2014- 2016 = 80 annually

Local Program Issues/Level-of-effort required for implementation:
We are currently short one biologist staff member. Budgetary issues will prevent us from filling this vacancy in the near future. Available staff time will be focused on core programs [Restricted Materials Permitting, Compliance Monitoring, Enforcement Response], with the remaining time allotted to other enforcement programs, training, and outreach.

Local Imperial County Environmental Task Force, California Border Environmental Task Force, Border 2020 California/Baja California Waste and Enforcement Task Force, and CA/Baja Pesticide Surveillance Task Force Meetings are attended by the Deputy Commissioner or the Supervising Agricultural Biologist IV of the Pesticide Use Enforcement Division. San Diego/Mexico meetings will be attended when staffing and travel budget allows.

Community outreach for pesticide safety projects to the public and field worker communities will be conducted when staffing and budget allows.

Core Program Priorities:

1. **Restricted Materials Permit –**
   Permitting -

   - Permits will be issued on a Fiscal Year basis (July - June), in keeping with local cropping patterns.
   - Permits will be issued only to certified applicators (PACs, QACs, or QALs), or their certified designees.
   - Staff will be given annual group training on the permit review process and consistent mitigation of sensitive sites.
   - Permits will be effectively reviewed and issued/denied in a thorough and timely manner.
   - Permit holders will be interviewed to ensure mitigation alternatives and site specific use practices have been considered.
   - A more focused permit application and approval process is used for high priority pesticides and sensitive sites by requiring job permits and/or increased pre-application site monitoring.
   - County wide Conditions of Use and mitigation measures specific to each use site are utilized as needed.
   - The permit and all related documents, conditions, and maps are personally reviewed with each permittee holder at the time the permit is issued. If the permittee is not the property operator, a letter of authorization is required. A

summary of pesticide use regulations and requirements, record keeping, worker safety regulations, and most common violations occurring each year is reviewed and signed by the permittee and biologist prior to issuing the permit.

- Growers and Pest Control Advisers will be targeted at meetings and workshops to educate as to necessity and meaning of careful evaluation of sites and pesticides requested, in order to reduce the need to deny permit requests.

Site Evaluation -

- Permitted sites will be evaluated to ensure identification of all sensitive sites, including residential and industrial areas, schools and licensed daycare centers, impacted crops, wetlands, waterways, livestock, and critical habitats of rare, endangered, or threatened species.
- Sensitive Sites: high priority sites will be identified and proposed mitigation measures reviewed to ensure appropriate human/environmental protection.
- All permitted sites must be on a map that includes potentially impacted areas and appropriate mitigation measures, which the permittee agrees to follow.
- A GIS based crop layering system will be utilized to identify sensitive sites and assist in the proper evaluation and mitigation of each site when such system is available.
- Sites that are near highly sensitive areas or include priority pesticides are specially noted on the permit or further separated by use of a special job permits or specific conditions of use.

Site Monitoring -

- Current identification of sensitive sites:

  - Occupied Structures

  - Ag/Urban interface

  - International border/border crossing interfaces

  - Schools & Daycare Centers

  - Waterways/Wetlands/Lakes/Reservoirs

  - Endangered species habitats

  - Fumigation sites

- All Notices of Intent will be reviewed and evaluated to ensure compliance with permit conditions and address any changes that might impact environmental or human health conditions.
- 5% or more of all approved NOI's will be evaluated through pre-application site evaluations. Pre-application monitoring of >5% of NOIs will identify potential problem areas or discrepancies and allow for correction or alternate mitigation measures prior to approval.

- Weekend and Holiday work, as allowed by budgetary and staffing constraints, will help in monitoring applications, as well as hours that are adjusted to the industry work during respected seasons.

2. Compliance Monitoring –

Staff are trained, assigned, and rotated through various locations and geographical areas within the county to ensure a thorough and complete compliance monitoring program. Work schedules are periodically adjusted to cover seasonal industry work shifts. Imperial County CAC will invest adequate resources to train staff on laws and regulations, investigations, and permit program compliance. This will help new staff to be better prepared to address all aspects of our pesticide use enforcement program, including inspections and investigations.

Inspections –

The inspection numbers are similar to previous years. The percentages of each type of inspection are adjusted to reflect staff training and areas that have changed focus since the previous year. The large scale monitoring of pesticide applications provides an effective tool for observing many pesticide applicators and application types and methods. It provides a realistic assessment of day to day compliance and provides a consistent and uniform enforcement presence in the field.

Targeted Sites –

- Fumigation & chemigation sites
- Sites with history of complaints
- US/Mexico interface
- CA/AZ interface
- Imperial County/Riverside County interface
- Ag/Urban interface
- Growers handling highly toxic pesticides, restricted pesticides, or applying large amounts of pesticides.
- Applicators with poor violation history and/or pesticide episode occurrence.
- Growers that have no history of inspection or audit for the last two years.
- Organic Growers
- Farmer's Markets

Random Sites –

- Inspectors will make inspections on an "as available" basis between targeted inspections and audits, in addition to specific assignments on general surveillance.

Anticipated Workload –

The numbers are based on the 2013 calendar year and will be adjusted based on the availability of licensed and trained staff.

General Pesticide Use Monitoring Inspections - 260/year (growers, PCBs, SPCBs)

Fumigation Inspections – 18/year (field, commodity, structural)

Field Worker Safety Inspections – 75/year

Pest Control Records Inspections - (10 PCBs, 42 growers, 9 dealers,

15 PCAs, 5 structural)

Pre-application Site Inspections – 265/year

Deliverables –

Inspections will be completed following a comprehensive inspection plan. Biologists will be encouraged to identify and adopt time and cost saving methods when completing paperwork and follow-up inspections that are routine or have no, or minor non-compliances.

Record audits will be performed annually on PCAs, PCOs, and Pesticide Dealers based in the county by appointment and unannounced inspections, and are also performed based on non-compliances and investigations as needed.

Record audits are conducted on 30 to 35 growers holding restricted materials permits each year by appointment on a rotating basis that prioritizes growers who handle large quantities of pesticides or highly toxic pesticides. Unannounced audits are done, as warranted, as a result of inspections with non-compliances, investigations, complaints, etc.

Pesticide use monitoring inspections are conducted randomly on all pesticide applicators, commercial or private, throughout the county and include weekend, night, and early morning hours when available, dictated by levels of pesticide applications during seasonal periods.

Targeted monitoring is also done to address specific concerns relating to sensitive sites, specific pesticides or application methods, and specific applicators. This type of inspection is rarely scheduled or announced.

Field Worker inspections are performed in a similar manner.

Staff training will focus on appropriate and accurate completion of forms, consistency of inspection procedures, and fair and uniform application of laws and regulations.

Investigations –

Investigations will be conducted on all pesticide related complaints and incidents. Staff responds to all complaints and investigates all episodes using DPR time frames and guidelines.

Anticipated Workload (for 2014-2016 based on 2013 statistics):

40 investigations; 1 priority

Goals-

Initiate complaint investigations promptly and complete all non-priority and priority investigations in a thorough and timely manner. All pesticide related complaints and incidents will be promptly investigated. The extent of resources and manpower allocated to investigations will be determined by the level of seriousness or hazard associated with each case.

Develop and use investigation plans - DPR's Investigation Procedures Standard Compendium will be utilized to identify elements, procedures, and to plan and generate efficient and comprehensive investigations.

Thorough report preparation - Manpower and resources will be used effectively and efficiently while ensuring that each investigation and written report appropriately addresses the investigation.

Deliverables-

DPR's time frames for completing and submitting priority and non-priority reports will be followed.

Investigative planning, investigation techniques, and evidence collection will be evaluated and chosen based on the specific nature of each case. DPR's procedures and guidelines are used as a reference and applied when applicable and appropriate.

Investigative reports are expected to be thorough, accurate, timely, and complete. Time frames for prompt completion of investigations will be monitored weekly on our investigative tracking log for progress, completion, upload to SAW, and supervised by the Ag Biologist IV and Deputy. Reports are expected to include detailed facts, any documented violations, and reference to other applicable code sections or pesticide labeling information which are pertinent to the investigation.

In the interest of promoting uniform and consistent investigation standards and enforcement responses, the identification of specific violations and recommendations of appropriate enforcement action will be made by the deputy after the investigation is completed and all evidence and information has been evaluated.

Staff training sessions to review changes in applicable codes and interpretations will be conducted, when necessary, to ensure consistency in investigation techniques.

Investigation reports will be reviewed and commented on by the lead biologist and the deputy before being finalized and signed by the investigator and the deputy.

3. Enforcement Response:

Anticipated Workload:

Historical Data:

~ 40/year: Compliance Actions (2012 –12, 2013 – 57)

~ 10/year: Enforcement Actions (2012 - 9, 2013 – 6)

Goals-

Compliance and/or enforcement actions will be taken for any documented violation. Decision reports will be completed and submitted to DPR, Southern Regional Office, for approval per the Enforcement Response Regulation requirements.

The current Enforcement Response Regulations will be utilized in making decisions on the most appropriate action.

Compliance and/or enforcement actions will be taken in a timely manner. The DPR Southern Regional Office, Anaheim will be notified of any case referrals to the District Attorney or other enforcement agencies.

Efforts will be directed at violations that pose the highest risk to people and the environment.

Deliverables-

Enforcement actions will be taken when appropriate and within the requirements of the Enforcement Response Regulations.

Each case will be evaluated on all relevant information; such as the type of violation, the evidence, the circumstances, and the prior history of the respondent.

Timeliness of compliance actions, decision reports, and enforcement actions taken will be emphasized. The most significant potential challenges for timely completion are from staff turnover and rotation, and having trained, experienced staff to complete them. Steps taken to prevent delays consist of establishing a non-compliance and investigative follow up routine consisting of immediate compliance history checks followed by discussion with supervisory staff to determine the appropriate action to take. This will result in timely decision reports when required, and immediate direction to follow up with a compliance or enforcement

action. Additionally, a violation check list will be completed to verify reports are sent to DPR promptly.

Special attention is given to assuring that enforcement actions are fair, reasonable, and justified and that notices of proposed actions are clear and concise.

Detailed information regarding the hearing process is given to respondents so they are familiar with the process and how to prepare for it.

Achieving effectiveness and efficiency in our civil penalty actions will be accomplished by concentrating on identifying significant violations through increased pesticide use monitoring of high-risk pesticides and highly sensitive sites, as well as targeting areas with traditionally low compliance records. This focused monitoring may produce fewer inspection numbers, but will provide more opportunities to take enforcement action against the more significant violations and violators.

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