Kings County Pesticide Use Enforcement Work Plan 2014-2016

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Pesticide Use Enforcement Resources

- Personnel: 4 full time Agricultural and Standards Inspectors
  1 full time Agriculture and Standards Inspector (frozen)
  1 Deputy Agricultural Commissioner/Sealer
  1 Part time Computer Systems Administrator
  1 Data Entry position
  1 ½ Time Data Entry and ½ Time Clerical (frozen)

The experience of the four inspectors in the pesticide division ranges from six months to over fifteen years.

A. Restricted Materials Permitting

Workload In June 2012 the department hired an Agriculture Standards Inspector 1 (Trainee) position. The ASI 1 was successful in passing Pesticide Use Enforcement exam and is currently conducting field inspections. In August 2013, one of our senior inspectors retired. In September the department hired an Agriculture Standards Inspector 1 (Trainee) position. The ASI was successful in passing Pesticide Use Enforcement exam. This has allowed the department to project for 2012-2013 a reinstatement of the previous 25% workload reduction. The division continues to be down one inspector position, and one ½ time data entry and ½ time clerical position and these positions are not expected to be filled in the immediate future.

	Actual	Projected		
	2013	2014	2015	2016
Restricted Material Permits	764	750	750	750
Operator I.D.'s	109	120	120	120
Notices of Intent	3,321	3,500	3,500	3,500
Pre-application Inspections	166	175	175	175
Total Sites	8,478	8,500	8,500	8,500
Total Man Hours	3,832	3,600	3,620	3,600

Goal

- Enable people to succeed in the production of commodities of optimum quality and yield while assuring the safety of their partners, the public, and our environment.

Permit-Evaluation

Permits for restricted materials are issued for one year or less to the operator of the property to be treated. Permit sites are evaluated prior to the issuance of the permit utilizing the extensive local field knowledge of the experienced staff. Geographic Information System (GIS) maps are used to help evaluate the surrounding environment. These maps utilize aerial photography with section, township, and range information to help accurately locate permittee sites. Grower-provided maps are still used to help establish their sites on the aerial maps. Residential areas, schools, churches, waterways, parks, and other sensitive areas are noted on permit maps to assist in evaluating sites to determine if a substantial adverse impact may result from restricted material applications. Feasible alternatives to restricted pesticides are considered and implemented when appropriate. Permit conditions are addressed with applicants to assure that any possible environmental impacts are mitigated.

The inspectors ensure that permit applicants are qualified and have met the requirements to hold a restricted materials permit. Private and qualified applicators' license numbers and expiration dates are verified and listed on the permit. If the operator of the property is not available to sign the permit, the authorized representative is allowed to sign with the proper documentation giving him or her authority to do so. Permit supplements/amendments are allowed by fax on an approved form and with the appropriate signatures of both the inspector and the permittee. Permits are issued using the CalAgPermitsSystem(CAPS), which allows instant access to the permittee's pesticide use report history, down to the site level if needed. CAPS was installed April 2011.

Permits are issued by licensed staff ranging in experience from six months to fifteen years in the area of pesticide use enforcement. From early-December through the beginning of February, as many as all four inspectors may be assigned to the office to handle the evaluation, editing and issuing of renewal permits, new permits, and review Notices of Intent (NOI's). Up to three of the four inspectors that are in the office during this time period are on a standby basis, and may be redirected to cover "fieldwork" as necessary. New staff works very closely with experienced staff to assure permits are accurately issued. Whether new staff is experienced or new to pesticide use enforcement it is important to continue to train and educate on the permit conditions unique to Kings County. Inspection staff will receive annual training on the policies and procedures used to issue permits and properly identifying sites.

Permits are evaluated periodically by the PUE Deputy, as well as the DPR Liaison, for accuracy and completeness. An expanded county-wide sensitive area map has been completed, and is continually updated, to allow an even better assessment of potential hazards posed by proposed applications of restricted materials.

<u>Deliverables</u>

- Timely issuance of permits, following County and DPR guidelines.
- Evaluate permits for adverse environmental impacts.
- Document sensitive areas on permit maps.
- Ensure permit applicants are qualified to sign permits.
- Address deficiencies in the permit issuance process through staff training.

Site-Monitoring Plan

NOI's are recorded on the appropriate form and are received via fax, mail, office drop slot and walk-ins. Beginning in the summer of 2011, we began receiving NOI's through the County's web site utilizing the CAPS web application. Web NOI's are downloaded and automatically printed out every hour. At least one inspector is assigned to the office on a daily basis. This PUE office duty person reviews all NOI's for accuracy and completeness and assigns them to the appropriate corresponding/geographic "area" of the county. The county is divided into four "areas" and an inspector is assigned daily to one or more of these areas. Inspectors also perform seasonal weekend duty, usually on Saturdays, to review NOI's and handle bee clearance calls.

The inspector assigned to one or more of the four areas within the county reviews the NOI's. The inspectors assigned to the areas determine the applications in need of pre-application inspections based on many factors, such as adherence to permit conditions, the surrounding environment, distances to sensitive areas (residential areas, schools, parks, etc.) areas with a history of complaints, application method (air/ground), pesticide used, commodity, and applicator. A GIS map of the county's sensitive areas is utilized during this evaluation. A pre-application inspection is performed on at least 5 % of all NOI's. Nearly all fumigant (methyl bromide, etc) applications near sensitive sites are inspected, assuring the buffer zones are both accurate and adequate. More than 5% of defoliant applications near sensitive areas are also monitored.

Deliverables

Target the following applications for pre-application site inspections:

- Methyl bromide and other fumigant applications within ¼ mile of sensitive areas. 100% pre-application and/or use monitoring inspection of these applications will be the goal.
- Aerial application of restricted herbicides within ¼ mile of susceptible crop.
- Aerial application of any restricted material near sensitive areas.
- Air blast (orchard/vineyard) applications near sensitive areas.
- Cotton defoliant applications, both air and ground, near sensitive areas.

B. Compliance Monitoring

Workload 2014 -2016 – The annual workload for 2014-2016 will be maintained as in the 2013 work plan for Kings County Pesticide staff.

- Pesticide Use Monitoring Inspections – 85
- Fumigation Inspections (Commodity/Field) - 16
- Field Worker Safety Inspections - 25
- Structural Inspections (Branch 1,2,3) - 25
- Records Inspections – 36
- Man Hours - 1250

Goal

Utilize an effective and comprehensive compliance-monitoring program to reduce risks to people and the environment.

Comprehensive Inspection Plan

All four Inspectors are fully licensed in pesticide use enforcement and are experienced in pesticide field activities. There are three inspectors in the Department that are fluent in Spanish, two of them are PUE Inspectors. The other is utilized from time to time for field worker safety inspections and other interpreting duties.

As the work years continue 2014 through 2016, pesticide Inspector staffing in Kings County is expected to be stable at four PUE Inspectors. With a staff of three Agriculture & Standards Inspector III's and one Ag & Standards Inspector II, the division is working as a cohesive unit and team to accomplish the goals and expectations set for 2014-2016 in the Enforcement Work Plan.

A Pesticide Use related job that continues to remain unfilled through the budget, is a ½ clerical + ½ data entry position. Included in the responsibilities of this job are duties such as bee clearances, use report entry, PRAMR data entry, inspection form tracking and registrations. It is not anticipated at this time that this position will be filled 2014-2016. Inspection staff performs bee clearances, registrations, inspection form data entry. The full time data entry person once dedicated to only data entry, now performs other clerical functions than previously assigned and assists with the PRAMR data entry as well.

Pesticide Use Monitoring Inspections are done on growers and pest control operators, focusing more on those utilizing employees to handle pesticides. Cotton continues to be a major crop in the county. Cotton acreage had increased in recent years, from approximately 66,000 acres in 2009, to 97,240 acres in 2013. Water deliveries for 2013-2014 are again cautiously optimistic. Various pesticides are applied throughout the cotton season, running from March through November. Targeted inspections for cotton pesticide applications include the use of aldicarb at planting time and the use of Tribufos and Paraquat for defoliation will continue to be a focus of this department.

Kings County has seen an increase in the acreage of processing tomatoes, and silage corn. Increased attention will be given to Pesticide Use Monitoring Inspections for these crops, especially the processing tomatoes, as more employee field labor is associated with their production.

Field worker safety inspections are done throughout the year and may be random or targeted. Orchards and vineyards have crews pruning in the winter, thinning in the spring, and harvesting from late spring through the fall. Row crops are weeded by hand crews from spring through the summer and harvesting in the summer through the fall. Hand labor crews are targeted, as well as cotton harvesters.

As uncertainty regarding irrigation water deliveries continues, drought tolerant crops such as sudan grass, sorghum, and safflower are beginning to be more prevalent in the county and grown as a viable alternative to crops traditionally grown in Kings County. These changes to low maintenance, drought tolerant crops have been associated with a resulting loss in hand labor. Harsh economic times have also had adverse effects for field labor, in addition to many customary pesticide uses being restricted or eliminated. The decreased usage of pesticides has made finding treated fields with hand labor more challenging but with experience and knowledge of the county, that the Inspection staff has, it allows them to seek

out these field worker safety applications. It is anticipated that the inspections will be comprehensive with a greater focus on application specific criteria, as is outlined in the inspection procedures manual and new inspection forms.

Small plots of 2 acres or less of strawberries are scattered around the edges of Hanford and Lemoore and are fumigated periodically with methyl bromide. The objective of the Department is to monitor 100% of these applications. This 100% level of inspection was successfully attained in 2013.

Late winter/early spring applications of herbicides to pre-plant cotton fields on the west side of the county resulted in numerous drift complaints in 2005. Consequently, new herbicide drift permit conditions were instituted for the 2006 season. Additional surveillance and use monitoring inspections on those applications are done during this time period. As a result, no reports of loss have been submitted since 2005 on the west side. The herbicide conditions, as well as the additional surveillance and use monitoring activities, will be continued 2014-2016.

Although Notices of Intent are utilized to determine possible inspection monitoring activities, random surveillance is relied upon more heavily for many monitoring inspections.

Residential development continues to expand, creating ag-urban interface issues in regards to nearby pesticide applications. Most notably, aerial applications, orchard blast applications, as well as dust and noise complaints arising from these practices are commonly voiced to the Agricultural Commissioner's Office. In 1996 the Kings County Board of Supervisors passed the "Right to Farm Ordinance" creating a countywide awareness that activities associated with agricultural practices, when performed in compliance with laws and regulations are not deemed to be nuisances but, commonly occurring, legal and should be expected for this region of California. To assure compliance with legal applications this department utilizes additional surveillance and use monitoring inspections as warranted in areas where the ag-urban interface is likely to occur. Grower and business outreach will continue, with the goal of encouraging growers, businesses and neighbors to cooperate and find ways to mitigate undesirable aspects of applications, while allowing them to proceed when possible.

In 2007/08, growers, dealers and pest control businesses were encouraged to request to take part in compliance assistance inspections to improve their respective operation's compliance with new pesticide laws and regulations, including the recent respirator and fumigation regulations. These inspections were initiated in 2008. Though very small in number, the resulting inspections have resulted in favorable responses from those who have participated. In February 2013, several business and private applicators participated in a closed mixing system survey conducted by CDPR. CDPR staff evaluated the types of systems used by applicators and handlers to see if the closed mixing systems were compliant with current regulations.

The construction of new buildings and sales of existing structures in Kings County has slowed considerably from the rapid growth experienced in recent years, and continues to do so. It is expected that Branch I structural inspections will continue to decline slightly as a

reflection of the reduced activity in the housing market. Branch II & III residential maintenance sprays have been reduced as homeowners respond to economic choices by cutting back in this area.

Record audits on pesticide dealers, pest control advisors, pest control businesses, and growers are fundamental in ensuring employees are being trained to use pesticides and that appropriate pesticide products are being sold and used properly. Inspections of businesses in Kings County have revealed a history of a high level of compliance. County-based dealers, pest control businesses, and pest control advisors will be inspected on a frequency ranging from annually to at least once every four years. In the summer of 2010 DPR's retail produce survey for pesticide residue testing resulted in the detection of non-registered pesticides being applied to peaches. Through the course of the investigation it was found that some pesticide dealers were selling products to growers who did not have the appropriate crops on their permit. This has brought about the need for further education to the pest control dealer community. Both enforcement inspections and compliance assistance inspections, if requested, may be used to monitor these records. Continuing education of dealers will be a goal of 2014-2016. These entities may be inspected more frequently if a trend of non-compliance develops or an episode is noted.

It is planned to update documents that were created to display information about pesticide use in Groundwater Protection and Herbicide Restriction Areas in Kings County, and to distribute these to pest control dealers and businesses in the county. Growers with employees are audited when inspections with one or more non-compliances of worker safety regulations are noted.

We will continue to coordinate with the county liaison in scheduling oversight inspections.

Inspection Goals	2014	2015	2016
Agricultural Application			
Grower	45	45	45
Pest Control Operator	40	40	40
Agricultural Mix/Load			
Grower	20	20	20
Pest Control Operator	25	25	25
Field Worker Safety	25	25	25

Inspection Goals Cont.	2014	2015	2016
Fumigations – Agricultural			
Field	8	8	8
Commodity	8	8	8
Structural Applications			
Branch 1	15	15	15
Branch 2/3	20	20	20
Records Inspections			
Pest Control Business Audits	10	10	10
Pesticide Dealer Audits	2	2	2
Pest Control Advisor Audits	12	12	12
Structural Headquarter Audits	1	1	1
Pre Sites Notice of Intents (Minimum)	5%	5%	5%

Deliverables

- Perform inspections according to DPR's Inspection Procedures Manual.
- Target field fumigation applications to ensure compliance with new regulations.
- Target monitoring inspections on growers and pest control operators utilizing employees.
- Target pesticide applications of aldicarb at cotton planting, and applications of Tribufos and paraquat at cotton defoliation.
- Target aerial applications of post emergent herbicides in February and March for adherence to label instructions and county permit conditions.
- Hand-labor crews will be targeted for field worker safety inspections.

Investigation Response and Reporting

Goal

Thoroughly investigate every incident and complete the investigation in a timely manner with accurate and supportive information.

All inspectors share the responsibility in handling the investigations. Miscellaneous complaints are handled by all staff as well. We maintain a Monthly Pesticide Episode Investigation Log for those investigations that are not assigned a Worker Health and Safety illness investigation number or a priority episode tracking number, but are included on the monthly Report 5, Section V. This log is available for review by the DPR liaison.

All complaints will be timely investigated and the investigations performed will be thorough and complete. Each report is reviewed by the PUE Deputy, and is available for review by the Enforcement Branch Liaison. Illness investigations are forwarded to DPR in Sacramento using the Secure Access Website (SAW).

Deliverables

- Thoroughly investigate all incidents and complaints.

- Complete investigations within 120 days.

C. Enforcement Response

Goal or Objective
A commitment to fairly and consistently apply DPR's Pesticide Enforcement Response Regulations to incidents where violations of pesticide laws and regulations are confirmed and documented.

Enforcement Response Evaluation
All inspections documenting non-compliances are followed up with a Notice of Violation (NOV). Inspectors write up a draft NOV and submit it to the PUE Deputy for review. The NOV is then data-entered into a Microsoft Access database. NOVs are either hand-delivered to the respondent, or they are sent by certified mail.

Investigation and inspection reports document all NOVs pending and/or issued. The PUE Deputy reviews the compliance history of each respondent and utilizes the enforcement response regulation to determine if an enforcement action is warranted. Decision Reports or Notices of Proposed Action (NOPA) are issued when appropriate. The response chosen is the one that will most likely result in sustained compliance with the most efficient use of resources, and will comply with DPR's enforcement response regulations. The NOPA, when utilized, adequately advises the respondents of their alleged violations, the proposed fine level, and their right to be heard. We will also continue to consider other enforcement options including denying or revoking restricted materials permits and licensee registrations, referring cases to DPR for licensing actions, or involving the County District Attorney. All NOVs and Enforcement/Compliance Action Summaries are submitted to DPR along with the Pesticide Regulatory Activities Monthly Report (PRAMR). A copy of the PRAMR is also provided to the Enforcement Branch Liaison

If an Administrative Civil Penalty (ACP) is warranted, the fine amount is determined utilizing Section 6130 of the California Code of Regulations.

Deliverables
- Follow-up all inspections, with a documented noncompliance, with a Notice of Violation.
- Complete all necessary follow-up inspections.
- Adhere to DPR's Pesticide Enforcement Response Regulations when determining the appropriate enforcement response to violation.

Priorities and other Pesticide Regulatory Activities

Beginning November 1, 2013, regulations by the Department of Pesticide Regulation (DPR) to cut smog-producing emissions of volatile organic compounds (VOC's) from pesticides go into effect. These regulations reduce VOC emissions from certain nonfumigant pesticide products (Title 3, California Code of Regulations, sections 6558, 6577, 6880, 6881, 6883, 6884, and 6886). The regulations are designed to keep VOC emission below a specified goal from May to October in the San Joaquin Valley. Kings County inspection staff will

assist DPR with outreach to pesticide dealers, pest control advisors, and growers of the new regulations.

Kings County Inspection staff will be using Secured Web Access (SAW) for all illness investigation reporting. A total of four staff member will have access to the SAW website, those staff member include three Deputy Agriculture Commissioner/Sealer and one senior pesticide inspector. All illness investigations and documentation will be transmitted using the SAW website.

Kings County Inspection staff will report all complaints of loss related to bee kills associated with an alleged pesticide applications to the Department of Pesticide Regulation, Central Regional Office.