Negotiated Work Plan
January 1, 2012 – December 31, 2014

Los Angeles County Pesticide Regulatory Program
by
Department of Pesticide Regulation
&
Los Angeles County Agricultural Commissioner's Office

Los Angeles County Agricultural Commissioner's Office

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LOS ANGELES COUNTY ENFORCEMENT WORK PLAN
Agricultural Pesticide Division
January 1, 2012 through December 31, 2014

RESOURCES: AGRICULTURAL PESTICIDE USE ENFORCEMENT

PERSONNEL

I. Inspection Staff
- 4 Full-time Inspector IIIs @ 100%
- 1 Full-time Office Inspector III @ 50%
- 3 Full-time Inspector IIs @ 100%
- 1 Deputy Commissioner @ 90%

II. Clerical Staff
- 1 Full-time staff @ 80%
- 3 Full-time staff @ 30%
- 1 Full-time staff @ 10%

PERSONNEL HOURS ALLOCATED TO THE PESTICIDE ENFORCEMENT PROGRAM

- Approximately 21,085 hours are available for a fiscal year.
- This includes supervision and clerical hours. This equates to 7.5 licensed inspector years, .9 deputy year and 1.8 clerical years.

ASSETS AGRICULTURAL PESTICIDE ENFORCEMENT

- Each Inspector III has a vehicle for his/her exclusive use.
- Both Inspector IIs have access to vehicles or use their personal vehicles when working in the field.
- Each Inspector II and all clerical staff have dedicated workstations with terminal access including the office Inspector III and one district Inspector III who work out of the Arcadia Headquarters.
- The three remaining Inspector IIIs work out of field offices located in Lomita, Lancaster, and Sylmar. All three inspectors have dedicated terminals.

- New inspectors rotated into the division receive initial training from the inspector they are replacing and the Pesticide Deputy. Inspector IIs also receive training on how to conduct inspections and investigations from the senior inspectors and the Pesticide Deputy.

AGRICULTURAL PESTICIDE WORK ASSIGNMENTS

- Each of the four senior inspectors are assigned to a specific district within the county. One covers the Antelope Valley, the remaining three cover the greater Los Angeles basin area and adjacent Santa Clarita Valley. The senior inspectors conduct annual headquarters record inspections, issue restricted material permits, issue operator ID=s, monitor pesticide applications, investigate complaints and pesticide related episodes/illnesses, conduct pre-application site evaluations and field worker safety inspections. They collect statistical data from crop and ornamental growers within their districts, which is used for production of the Department=s Annual Crop Report.

- Two of the three junior inspectors work primarily in the Headquarters office. They are responsible for: processing monthly pesticide use reports, review out of county restricted material permit applications and issue permits, conduct Private Applicator exams and issue certificates, review of Notices of Intent (NOI) (entering into the database and forwarding to senior inspectors), file and distribute Department of Pesticide Regulation (DPR) communications (Enforcement Letters (ENF), Special Local Need Registration (SLN), Section 18's and various bulletins), write and process Notice of Proposed Actions (NOPA), warning letters and decision letters, prepare and process hearing documents, respond to calls from the public or industry and provide requested information or service (e.g., answer questions, receive episodes, send forms, etc.), assist with the compilation of data and preparation of the Crop Report, and assist senior inspectors with various inspections, issuance of permits and operator ID=s including covering their respective districts during scheduled vacations. The third junior inspector is responsible for: assisting senior inspectors with their workload, monitoring off gassing of methyl bromide from fumigated Chilean grapes at various cold storage facilities within the County, covering for the other two junior inspectors during scheduled time off, and assisting the Deputy with any additional projects as needed.

EXPECTED WORKLOAD-PERMITS AND OPERATOR ID ISSUANCE
(Anticipate equivalence to 2011)

- Total Restricted Material permits issued in the calendar year 2011 538*
  A. Production Ag/Crop 60
  B. Production Ag/Ornamental Nursery Stock 43
  C. Non-Production Ag (Golf Courses, Parks, Govt. Agencies, etc.) 234
  D. Pest Control Businesses (PCB) 201 (Includes 196 Non-Ag. Permits)

*In 2011, an additional 47 Non-Ag permits were issued to importers of Chilean grapes and kiwis.

- Total Operator ID=s issued in 2011 277
  - A. Production Ag/Crop 88
  - B. Production Ag/Ornamental Nursery 103
  - C. All Others 86

- NOIs 7060

- Total private applicator certificates issued (3-yr period) 133

EXPECTED WORKLOAD-COUNTY REGISTRATION

- Pest Control Advisors (PCA) registered 116
- Pest Control Business (PCB) registered 346
- Maintenance Gardeners (MG) registered 98
- Pilots registered 21

DESCRIPTION OF CORE ACTIVITIES-RESTRICTED MATERIALS PROGRAM

Site Monitoring/Hazard Evaluation

- The Inspector IIIs are responsible for site evaluations and issuance of permits in their districts. Aerial views are available of sites throughout the county via the Internet. All inspectors have Internet access.

- Operator ID=s and permit applicants are annually inspected by their respective district inspectors. Inspector IIs can also write both. They receive training prior to issuing permits or ID=s and an Inspector III reviews their paperwork. Subsequently all permits are evaluated by the Deputy.

- Targeted pre-site and application monitoring inspections include all methyl bromide soil fumigations and all aerial applied pesticides within the greater Los Angeles basin. (Aerial applications in Los Angeles County of ANY non-restricted or restricted pesticide require a 24-hr NOI.)

- There are 4 sites where methyl bromide is used to fumigate soil prior to strawberry planting. These sites and existing conditions have been static. Adequate buffer zones are established. Each year, prior to issuance of a methyl bromide permit, the sites are re-evaluated along with the grower=s work site plan by the district inspector to verify no new conditions exist and the established buffer zones meet requirements.

- Methyl bromide commodity fumigation permits are re-issued on an annual basis. District inspectors review work site plans and conduct site evaluations prior to issuance of a permit. Fumigation monitoring is conducted on a random non-scheduled basis. Averages of 20 or more inspections are conducted on an annual basis.

- Metam sodium applications adjacent to sensitive sites are also targeted.

DESCRIPTION OF CORE ACTIVITIES-COMPLIANCE MONITORING

Priority Investigations

In the past 3 years, the Agricultural Pesticide Regulation Division has had 4 priority investigations. One was a suicide attempt. One involved seven children exposed to chlorine fumes at a public pool. One involved a truck driver transporting technical grade pesticide and one that involved a massive die-off of waterfowl and fish at a golf course which was determined to be not pesticide related.

ROUTINE INVESTIGATION/COMPLAINTS

- The number of episodes investigated has averaged 17 for each of the last 3 years.
- Over the last 3 years our investigations have resulted in four enforcement actions with civil penalties.
- We have been able to reduce the number of complaints going to the district inspectors for investigation through training of office staff in conducting a more thorough screening while interviewing the complainant. The reduction of episodes has been of the type involving neighbor versus neighbor. The majority of our episode investigations now are generated from illness reports, documented incidents, and legitimate complaints.

INSPECTIONS

- Ornamental nursery stock production continues to be L.A.=s leading crop. Almost 65% of our total annual crop production value is generated by this industry. Monitoring of pesticide applications by nurseries is a major focus. Pesticide handler workers safety issues are one concern. The majority of non-compliances observed at production nurseries involved PPE.
- The number of field worker safety inspections performed has averaged 30 for each of the last 3 years. Inspections are conducted at agricultural and ornamental sites. The greater percentage of inspections conducted were at wholesale nurseries. The department will continue to monitor field worker safety compliance.
- The proximity of most of the nurseries to residential areas and other sensitive sites is another reason for concern and reason to monitor pesticide activity.
- Due to the proximity of strawberry acreage to sensitive sites (ALL are located within the greater basin area of the county), every methyl bromide application is monitored. The Department budgets overtime to assure coverage of applications on weekends, if

necessary. Applications of methyl bromide to strawberry acreage traditionally occur between July and September.

- The Department will also budget overtime to cover other high profile applications such as aerial applications which can occur in the greater basin area of the county.

- New regulations to reduce emissions of volatile organic compounds (VOC=s) went into effect in 2008. The regulations apply to the field fumigation use of seven fumigants during the period of May 1st through October 31st, each year. Los Angeles County is within two of the ozone non attainment areas identified in the state. Additional time for inspections and reissuing of restricted materials permits is now required. The amount of additional workload will be determined by the number of permit request received.

- Chemigation is widely used by growers in the Antelope Valley area of the county. This pesticide application method is primarily used in carrot and onion production. Metam sodium and other non-restricted pesticides have been traditionally used about equally. We plan to continue our monitoring of both restricted and non-restricted pesticide chemigation applications to assure compliance.

- Pest control record inspections are another major component of the Department=s pesticide regulation program. Inspectors traditionally inspect the records of over 80 pest control businesses, 150 production agriculture businesses and 200 other types of businesses and agencies that apply pesticides to their properties.

- Applications by California Department of Food and Agriculture (CDFA) to eradicate fruit fly infestations or other state eradication projects, such as Asian Citrus Psyllid and Light Brown Apple Moth, are also monitored each time a new area is treated. Public concern regarding general pesticide use necessitates this action.

REVIEW PROCESS

- All inspections, investigations, and applications for permits and operator ID numbers are reviewed by Pesticide Deputy for completeness and accuracy.

- A DPR Enforcement Branch Liaison schedules visits to audit the division=s records and work in the field with inspectors. Oversight inspections conducted to ensure consistency with state guidelines may uncover discrepancies. If a discrepancy occurs, the Pesticide Deputy will review the inspection procedure with the inspector to ensure that correct procedures are understood and the error is not repeated.

ENFORCEMENT PROGRAM

- When non-compliance is observed by an inspector during an inspection, the inspector will assign a violation number to the inspection form and provide a copy of the form to

the person inspected.

- The inspection form is forwarded to the Pesticide Deputy for review and further action. A copy of the inspection form is stamped with bold and large red lettering AVIOLATION NOTICE.@ This copy serves as the violation notice and is mailed to the business owner or property operator which had been inspected. The inspector keeps a copy of the inspection so that they can follow up on any violations that were not corrected at the time of inspection.

- If a violation is uncovered during an episode investigation, the non-compliance is documented on a Notice of Violation form. The notice is forwarded to the Pesticide Deputy for review and action. A copy is mailed to the person/firm in violation.

- The inspection data, notices of violation and the enforcement or compliance actions are entered into the pesticide data base. Additionally, a hard copy violation file is established and kept with the program record files. This is done to establish a compliance history of the person/firm inspected.

- Follow-up inspections are difficult to obtain on landscape companies. The problem can be from a low frequency of applications, the fact that they may be headquartered outside of the county or low probability of contact with the same firm due to the large urban area which comprises Los Angeles County. Low frequency of applications can also impact follow up inspections involving growers.

- The Pesticide Deputy makes the decision on which action to take regarding violations. The process includes a review of the regulated entity=s compliance history. Subsequent violations in a two year period will result in a higher fine or a raise in fine category.

- In general, all violations are considered for civil penalty action on the first occurrence. If a company or individual inspected is required to have, but does not possess, a DPR business license, a stop work order is also issued. Compliance actions in the past have been taken in the form of a violation notice or both violation notice and warning letter for minor oversight violations.

- The Pesticide Deputy=s recommendation for an enforcement action or compliance action is forwarded to the Bureau's Deputy Director for review and approval.

- Once a NOPA has been written for a civil penalty action, the NOPA is forwarded to the commissioner for review and signature.

- If a hearing is requested by a respondent, the Pesticide Deputy serves as the Department=s advocate. During the past 11 years, a total of 13 hearings were held. The civil penalty actions, with the exception of one, were upheld.

PREVIOUS GOALS AND ACCOMPLISHMENTS FOR THE AGRICULTURAL PESTICIDE PROGRAM

- In 2002 the Ag Pesticide Division developed and published a AGrower=s Guide@ to provide general information on what is required of a grower who uses pesticides or has pesticides applied by a pest control company for the production of agricultural or ornamental commodities. The guides covered the basic requirements including record keeping, labels, training, field posting, PPE, medical care information, decontamination facilities, equipment and storage. Three hundred copies were published and distributed. In 2006, the Department re-ordered an additional 400 copies of this guide for future distribution. In 2011 the guide was revised again and additional 400 copies were ordered. The guide is also available online at http://acwm.lacounty.gov/.

- In February 2008 a guide for other types of property operators similar to the AGrowers Guide@ was published. This informational booklet was distributed to all non-production property operators throughout the County, (Golf Courses, Cemeteries, Parks, Public Agencies, etc.), as part of an additional outreach to pesticide users.

- The monitoring of landscape pesticide applications to residential, industrial, and institutional sites by PCB=s and Landscapers were areas where we increased our attention. The majority of violations written continue to come from this part of the industry. Lack of Personal Protective Equipment (PPE) use, training, and possession of a valid state business license are the most common violations. To improve overall compliance, the Department initiated an outreach program targeting Landscape Contractors conducting business within Los Angeles County. An informational letter regarding state pest control business license and county registration requirements was developed. A total of 4,025 Landscape Contractors, located in Los Angeles, Ventura, Orange, San Bernardino and Riverside Counties were mailed a copy of the letter in August 2006. In addition, the Department provided outreach to potential clients of Landscape Companies such as Housing Authorities, Apartment Owner Associations and cities located within the County. The information provided covered state licensing and county registration requirements, workers safety issues, notification requirements, and other pertinent regulations.

- Outreach to first responders, (L.A. County Fire Department, Hazardous Material Force), was initiated in November 2008. The training was provided to Fire Department personnel located in the Antelope Valley.

- In May 2009 an informational letter was mailed out to all cities located within Los Angeles County, all County Departments, special districts, each Board Supervisor, and

their respective Deputies. The letter provided information on licensing requirements for contract vendors who provide landscape or building maintenance services and may also be providing pest control as part of their regular routine maintenance services.

- English and Spanish flyers providing general information regarding licensing requirements for the landscape maintenance industry were developed and distributed during 2009.

- In March and April 2010 an informational letter was produced and distributed to rental property owners, property managers, and various homeowner associations. The letter provided information pertaining to licensing requirements for vendors providing pest control services as part of their routine maintenance work.

- In May 2010 the Pesticide Deputy spoke at two meetings of the Greater Los Angeles Apartment Owners Association. The association has over 35,000 members. The topic covered was contracting with vendors who provide pest control services as part of their routine maintenance and the licensing requirements for those types of operations.

- During 2011 the Pesticide Deputy reviewed all out of county pesticide dealer sales reports. Numerous sales, primarily to landscape maintenance companies, were found. Although in most cases the owner or manager possessed a DPR qualified applicator certificate (QAC), they did not possess a DPR pest control business license. Most of these businesses thought a QAC was all that was required to provide pest control services as part of their regular routine maintenance.

- One of the first landscape businesses investigated had an enforcement action taken against them for unlicensed activity in April 2005. Most of the businesses found in violation of FAC 11701 had received the Department's outreach letter dated August 2006. The non-compliances were documented with a violation notice and a Stop Work Order, FAC 11737.

GOALS FOR THE AGRICULTURAL PESTICIDE PROGRAM

- The Pesticide Division will continue to uphold established policies. Inspections will be thorough and evidence collected will support the enforcement action taken.

- The Pesticide Division will continue to monitor applications conducted by landscape companies to assure compliance with licensing, PPE use, training, and other state regulation requirements.

- In an effort to provide clarification on licensing requirements the Department will, in the upcoming year, re-issue an outreach letter to all landscape businesses located within the Counties of Los Angeles, Ventura, Orange, Riverside, and San Bernardino. The Pesticide Deputy will provide a copy of the mailing list to the Pesticide Deputies in

each of the other four Counties.

- The Agricultural Pesticide Division will review all in-county pesticide dealer sales records during the next three years. All documented sales to landscape businesses will be investigated and appropriate compliance or enforcement action will be taken. Out of County pesticide dealer sales within Los Angeles County will also be monitored.

- In addition the pesticide Division will continue to work with DPR staff regarding the recently documented problem of methyl bromide off gassing from fumigated imported Chilean grapes.

RESOURCES: STRUCTURAL PESTICIDE USE ENFORCEMENT

PERSONNEL

To enhance operational efficiencies of the Structural Pesticide Regulation Division, reorganization was implemented in 2011. All Field Inspectors have been cross trained and are now able to perform Branch 1, 2 and 3 inspections.

- 3 Full-time Field Inspector IIIs @ 100%
- 4 Full-time Field Inspector IIs @ 100%
- 2 Full-time Office Inspectors @ 100%
- 1 Deputy Agricultural Commissioner/Sealer to oversee program – 100%
- 1 Full-time clerical position @ 100%
- 2 Part-time employees that assist in data entry and the answering phones
- 1 Office Inspector III - shared between both Agricultural and Structural Pesticide programs

PERSONNEL HOURS ALLOCATED TO THE STRUCTURAL PROGRAM

- Licensed hours-approximately 20,887
- Approximately 8448 hours are available for Branch 1 inspections
- Approximately 6336 hours are available for Branch 2/3 inspections
- Deputy has 1879 available
- Office inspectors have 4224 hours available
- Unlicensed staff has approximately 3549 hours available for the Structural Pesticide program

STRUCTURAL ASSETS

- All 7 Field inspectors have a vehicle for his/her exclusive use.
- We have a work station and computer available for each inspector.

Overview of the current the Structural Pesticide program:

To assure that the commercial application of pesticides in and around structures are safe for applicators, occupants, non-target organisms, and the environment.

We will accomplish this through inspections, education, and prosecution of violations. The areas found in non-compliance will be enforced under the Laws and Regulations of California. These Laws and Regulations are found in the Food and Agricultural Code, California Code of Regulations, the Business and Professionals Code and other applicable state and federal regulations governing those segments of industry.

CORE ACTIVITIES OF THE STRUCTURAL PESTICIDE PROGRAM

There are four areas that this program oversees:

1) Branch I Fumigations - Involves inspections of companies and their employees that have been contracted to perform structural fumigations. The inspections cover the application, aeration and certification phase of each structure that has been fumigated. Los Angeles County is also one of four counties that receives a five dollar fee for every fumigation. This fee covers the cost of partial aeration and tarp inspections. During the 2010-11 fiscal year there were 71 Branch 1 companies registered in Los Angeles County.

2) Branch 2 Fumigations - Involves inspections of companies and their licensed employees that perform general pest control for hire. These inspections oversee the use of pesticides and the equipment used to apply them in and around structures, including household and commercial buildings. During the 2010-11 fiscal year there were 743 Branch 2 companies registered.

3) Branch 3 Fumigations - Involves inspections of companies that only perform treatment of structures with pesticides to eliminate termites that have invaded the structure and termite inspections. During the 2010-11 fiscal year there were 681 Branch 3 companies registered.

4) Investigations - The County has the responsibility and the authority to investigate episodes that may have involved potential or actual human illness or injury, property damage, loss or contamination, and fish or wildlife kills alleged to be the result of the use or presence of a pesticide. During fiscal 2010-11 year, 272 episodes were investigated with 16 violations issued. We will continue to provide, sound and factual information that gives a clear picture of what occurred in the episode. These reports will assist the DPR Worker Health and Safety and Registration Branches to assess exposure risks and to evaluate the pesticides involved. All episodes are assigned to an area inspector for investigation with State mandated time limits for completion within 120 days.

In the past three fiscal years the Structural program has had 18 priority investigations. These investigations have included a fumigation death and a child admitted to the hospital for eating a chlorine tablet.

Los Angeles County has averaged 231 investigations per year over the three fiscal years. About 50 % of these investigations are antimicrobial. In the last 3 years, we have completed over 98% of our investigations in the allotted time frame of 120 days.

To maintain the high level of proficiency in episode investigations, the County will provide ongoing training to all inspectors. Regularly scheduled meetings will be held to ensure the consistency and efficiency of the program.

EXPECTED WORKLOADS

Branch 1

- 1200 Fumigation inspections- including applications, aerations, and certifications.
- 1000 Partial inspections, part of Los Angeles County=s 5 dollars fee inspection program.
- 60 office records inspections (inspect every company registered to do work as a Branch 1 company in Los Angeles County).
- 15 to 20 Branch 1 episode investigations.

In November of 2011, the new California Aeration Plan (CAP) was adopted by DPR. The implementation of this plan has resulted in a large number of violations. There has been a shift in the focus of inspections, but no additional resources have been required for enforcement purposes.

Branch 2/3

- 60 Branch 2 use inspections.
- 20 Branch 3 use inspections.
- 200 combined HQ/Employee office records inspections.
- 165 Branch 2, 3 related episode investigations (number will vary each year; obligated to completed all pesticide and antimicrobial related episodes).

ENFORCEMENT AND COMPLIANCE ACTIONS REVIEW PROCESS

All inspections are reviewed by a licensed pesticide staff member and/or the Deputy for completeness.

New inspectors are trained by our veteran staff and the program Deputy. They also receive annual Structural Pesticide Training Program sponsored by DPR and SPCB.

A DPR Enforcement Branch Liaison (EBL), schedules visits to include working with all the district inspectors, to observe work in all 3 Branches of the Structural Pesticide program.

When a violation is noted on an inspection, a Notice of Violation is generated by the inspector, and reviewed by the Deputy. A copy is then sent to the person/company inspected as the official violation notice.

The violation is further reviewed by the Deputy to see if the violation requires additional action. The reviewer looks at the past compliance history of the person and/or company involved in the violation. Once this has been determined, a fine level (Civil Penalty Action) will be set and a Notice of Proposed Action is written and sent to the person and/or company in violation.

During the fiscal year of 2010-11, there were a total of 257 enforcement actions and warning letters issued. To continue this high level of enforcement, DPR guidelines will be followed and problem areas targeted.

GOALS FOR THE STRUCTURAL PESTICIDE PROGRAM

1) Coordination and communication with the Board Specialists has been improving. The Structural Pesticide Use Enforcement Program in Los Angeles County will be working to further improve this relationship and to coordinate enforcement actions on repeat offenders. Meetings with the SPCB Specialists and County Inspectors will be held on a regular basis, "sting" operations involving both agencies will be initiated and multi–agency inspections will be performed when necessary.

2) Based on the last fiscal year's enforcement actions, high numbers of CAP, respiratory protection and registration notices of violations were issued. Focus will be placed in these areas when providing continuing education hours and meeting with the industry.