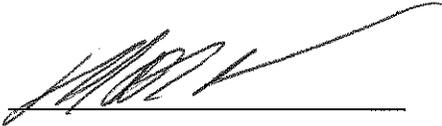
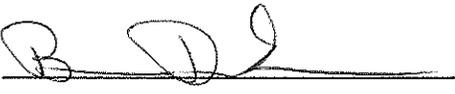


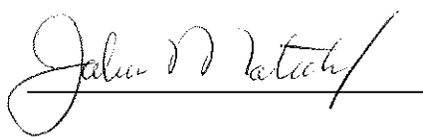
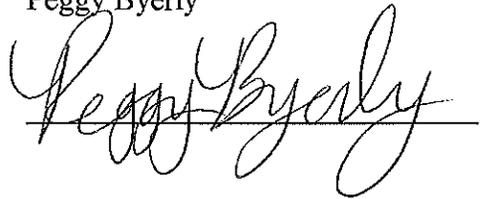
**Negotiated Work Plan
January 1, 2012 – December 31, 2014**

**Orange County Pesticide Regulatory Program
by
Department of Pesticide Regulation
&
Orange County Agricultural Commissioner's Office**

Orange County Agricultural Commissioner's Office

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Date:	February 6, 2012	

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**ORANGE COUNTY AGRICULTURAL COMMISSIONER
ENFORCEMENT WORK PLAN
January 2012 through December 2014**

The Orange County Agricultural Commissioner (ORA CAC) Pesticide Use Enforcement Work Plan has been developed using the Department of Pesticide Regulation (DPR), Enforcement Letter Number 08-18. The Orange County work plan will be a three year plan from January 1, 2012 through December 31, 2014.

The ORA CAC Pesticide Use Enforcement (PUE) program consists of the following components:

- Restricted materials permitting
- Compliance monitoring
- Enforcement responses

The annual staffing resources to accomplish these activities outlined in this work plan are anticipated to remain at the 2010 and 2011 levels. During calendar year (CY) 2010 and 2011, about 17,000 hours each year were expended. This is the equivalent of nine full time staff working in the Orange County Pesticide PUE program. This includes a deputy commissioner whose PUE program duties are approximately 50% and a PUE supervisor whose PUE program duties are a 100%. Field staff is expected to consist of a combination of five PUE inspectors at 85%, and five district inspectors who have multiple program responsibilities including Pest Exclusion, within a geographic area of the county. The district inspectors devote approximately 25% of their time to their PUE activities annually.

The following is a breakdown of the core enforcement program by component with the anticipated staffing hours including the structural fumigation enforcement program for each of CY 2012, 2013, and 2014.

Restricted Materials Permitting	700 hours
Compliance Monitoring (Inspections)	8,000 hours
Compliance Monitoring (Investigations)	1,000 hours
Enforcement Response	500 hours
Structural Fumigation Enforcement Program (SFEP)	2,500 hours
Supervision / Management	500 hours
Office Support (Includes Pesticide Use Report Processing)	3,800 hours

Orange County does not have any additional “field” offices. Inspectors use their personal vehicles for transportation and have county cell phones for use to conduct their work. Computers are available at the office for the inspectors use to receive and respond to email and access to DPR enforcement web site and other information available on line.

A. RESTRICTED MATERIALS PERMITTING

The annual evaluation by DPR of ORA CAC’s Restricted Materials Permit program has consistently been found to meet the required standards with no corrective actions needed. ORA CAC has been able to maintain this standard through self-evaluation.

Orange County is continually becoming more urbanized; the pesticide use enforcement program faces numerous issues in regulating pesticide use. All of the fumigated fields are near sensitive sites such as residences, schools, parks, industrial areas and other locations that may become developed in a short period of time. This requires additional time and knowledge of the sites to issue restricted materials permit for use at these sites. In many cases, our permit conditions go beyond the established state guidelines in order to adequately protect the public, the environment and reduce the number of illnesses and complaints.

The following actions will be taken to attain our goals:

1. ORA CAC will follow the DPR Enforcement Program Standards Compendium Volume 3 – Restricted Materials and Permit Manual.
2. Encourage growers to educate the community through positive interaction year-round regarding farming practices and the safe use of pesticides.
3. Provide outreach and training to industry regarding changes in regulations, such as the field fumigation training session that was conducted during the summer of 2011 for growers. The ORA CAC will also provide information to the community regarding the safe use of pesticides.
4. Issue permits with the conditions necessary to adequately protect the public and the environment.
5. Perform inspections at a level that will achieve the compliance necessary to reduce possible exposure and complaints by the public.
6. ORA CAC PUE staff attended the training for DPR Pesticide Use Enforcement Program Standards Compendium Volume 4 - Inspection Procedures in FY 2008-2009.

Permit Evaluation

Orange County Permits (approximate)

Agricultural Annual	170
Agricultural Multi-year	90
Non-agricultural	5

Over 90% of the Restricted Materials Permits are agricultural use permits that are issued each year to the same applicant, with similar pesticides for use on the same sites. Agricultural Inspectors generally have the same permittees assigned to them each year and are familiar with the permittee's operation, compliance history, and surrounding areas that may be impacted by pesticide use. Annual agricultural permits consist of a total of 1,450 sites, which are required to be evaluated yearly.

Each Agricultural Inspector's responsibilities for permittees assigned to them include:

- Review and issue Restricted Materials Permit after considering alternatives and mitigation measures.
- Review and evaluate each Notice of Intent received.
- Prior to approving the application for a permit renewal, a site inspection must be conducted.
- Pesticide Mix/Load and Application inspections.
- Field Worker Safety inspections.
- Headquarters inspections.
- Field Fumigant monitoring inspections on sensitive sites using air testing equipment.

Annual Procedure for Permit Issuance

November

- 1) Current year permits are reviewed by the issuing inspector, including a discussion with the permittees regarding alternatives, to identify any mitigation measures and to make additional changes for the upcoming year.
- 2) County records are evaluated to determine past permittee and/or site related compliance issues that may need to be addressed during permit issuance.
- 3) Information packets are sent to current permittees with instructions on permit issuance, required documents necessary for renewing permit, and a scheduled day and time for permittee to apply for reissuance.
- 4) Clerical staff inputs permit changes into permit database.

December/January

- 1) Updated permits for the next year are printed and distributed to inspectors.
- 2) Inspectors visit sites to assess the need for additional mitigation measures or permit conditions.
- 3) Inspectors meet with the current permit holders who are applying for a new permit at CAC office.
- 4) Private Applicator Exam is given as necessary to permittees who are included in the regulatory certification requirement.
- 5) Informational packets are given to the permittee including changes for the coming year.
- 6) Based on the review and evaluation of the permit application, if appropriate, the permit is issued.

Multi-Year Permit Issuance procedure:

Entities that are eligible for an Orange County multi-year permit includes cities, golf courses, school districts and cemeteries that are placed on a schedule establishing a rotation cycle for 3 year renewal. The multiyear permits are processed the same as annual permits.

New Permit Issuance Procedure:

As requests for permits are received, each request is evaluated, mitigating measures are discussed, and the site is evaluated. If the request meets the requirements of the Volume 3, Restricted Materials Permitting of the Pesticide Use Enforcement Program Standards Compendium, the permit may be issued.

In Orange County, during the months of December and January approximately 70% of the following are processed each year, in addition to the 246 Restricted Materials Permits issued:

- 350 Operator Identification numbers issued over three years
- 300 Agricultural Pest Control Businesses registered annually
- 150 Maintenance Gardeners registered annually
- 890 Structural Operators registered annually
- 190 Agricultural Pest Control Advisors registered annually
- 25 Certified Private Applicators examinations given annually
- 70 Pest Control Aircraft pilot (sterile release program) registered annually
- 3,500 Notice of Intent (NOI) reviewed during the year.

Site Monitoring Plan

Orange County's existing site monitoring plan has been successful for many years. High priority is given to all restricted materials and sites within sensitive areas. High priority is given to sites that have a history of problems or sites that have received complaints. Field fumigation sites are given the highest priority.

Due to the potential hazards associated with the use of fumigants for agricultural soil fumigations in an agricultural and urban setting, the ORA CAC will dedicate the resources needed to assure that each field within a sensitive area will be monitored throughout the entire fumigation process. The monitoring will assure compliance with applicable laws, regulations, and permit conditions in an effort to protect workers, the public and the environment.

B. COMPLIANCE MONITORING INSPECTIONS AND INVESTIGATIONS

The annual evaluation by DPR of ORA CAC Compliance Monitoring program has consistently been found to meet the required standards with no corrective actions needed. ORA CAC has achieved this through diligent self-evaluation of the current Compliance Monitoring program.

Investigation Work Plan

The Orange County Agricultural Commissioner's office considers investigations related to pesticide illness, injury and complaints, a high priority. Each year the number of illnesses, injuries and complaints will vary. During CY 2009, 2010 and 2011, ORA CAC staff investigated a combined total of 147 investigations; this total included DPR WH&S assigned and other complaints. Nine of these investigations met US EPA priority criteria. We have 12 licensed staff members that are trained to do investigations. The majority of the investigations we perform involve structural pest control activities and antimicrobials. We have seen an increase in the number of pesticide complaints from the public concerning neighbors and pest control businesses. Complaints concerning the use of fumigants during structural and agricultural fumigations are given the highest priority.

The investigations will be thorough and completed in a timely manner by doing the following:

- 1) Implement the Pesticide Illness Report notifications system according to the statewide agreement.
- 2) Provide training to inspectors/investigators to assure their knowledge of the proper techniques in investigation evidence gathering and writing investigation reports.
- 3) Continue to maintain the investigation log by entering DPR required data in the log as we receive complaints/illnesses and having it available to DPR for review as requested.
- 4) Continue our internal tracking system to remind the inspectors when the investigation is to be completed to help ensure timeliness in completion and submission of investigation reports to DPR.
 - a) ORA CAC will consult with the DPR EBL on high profile WH&S investigations and complaints.
 - b) ORA CAC will follow the DPR Compendium Volume 5 Investigation Procedures when conducting investigations and in writing the reports.
 - c) ORA CAC investigations are reviewed for completion and accuracy by the Program Supervisor in PUE and the Deputy Agricultural Commissioner in PUE prior to being submitted to DPR.

Comprehensive Inspection Plan

We will continue to perform approximately 2,300 total pesticide use inspections annually. This includes application, mix/load, field worker safety, and headquarters inspections.

Inspection Prioritization

The highest priority inspections/investigations in Orange County and our plan for accomplishing these activities are the following:

Field fumigations – There are approximately 70 total sites, and all are sensitive sites. Our goal is to perform inspections on all fumigations near sensitive sites. We work closely with growers throughout all phases of the fumigation of fields near schools, residences, and other sensitive sites, to minimize the possibility of an incident. Our plan is to work with the growers on alternative fumigants and consider all appropriate mitigation measures to reduce risk, and provide assistance in compliance with the laws, regulations, and permit conditions.

Structural fumigation – Approximately 15,500 Notices of Intent for structural fumigation are received each year in Orange County. Due to the potential problems associated with structural fumigations, toxicity, the large numbers of structures fumigated in Orange County, and public concern, structural fumigation inspections are a high priority. Orange County has participated in the Structural Fumigation Enforcement Program (SFEP) for 15 years. This program was initiated through industry-sponsored legislation and funded by the structural industry. The program has improved compliance through increased inspection levels, enhanced communication with registrants and the Branch I industry, and improved cooperation between industry and ORA CAC. The goal is to continue the high level of inspection activity (monitoring approximately 4 %) of the 15,500 structures fumigated in Orange County annually.

Structural Branches 2 & 3 and non-production agricultural pest control represent a large segment of the commercial pesticide use in Orange County. Although the majority of pesticides used are categorized as “warning” or “caution” materials, the widespread use and the potential for worker safety violations and complaints, justifies allocating inspection resources to assure compliance.

Gaining compliance of pest control companies, including companies that are unlicensed and others with a history of noncompliance are a priority. This will be accomplished by increasing inspection levels and enforcement actions as necessary.

To assure the highest priority inspections are being performed, we have implemented the following procedures:

- Completed inspection forms are reviewed by the PUE Program Supervisor and must be thorough and legible.

- Pertinent information is documented on the inspection form in the *remarks section*, when a noncompliance is found.
- PUE Program Supervisor closely tracks the program to ensure highest priority inspections and any necessary follow-up activities are being completed.
- Retain flexibility to shift resources if priorities change.

Program success will be measured by improved compliance within the areas of the focused inspections listed below.

The following list estimates the number of inspections to be performed by ORA CAC PUE staff for CY 2012, 2013, and 2014.

I. Completed Investigations (Human Effects, Environmental Effects, Property Loss/Damage, Other)	100%
II. Application Inspections (Non-Fumigation)	350
Property Operator (Grower, Government) – 40	
Pest Control Business (Agricultural, including Maintenance Gardener) – 130	
Structural (Application/Mix Load)	
Branch II – 160	
Branch III – 20	
III. Field Worker Safety Inspections	40
IV. Mix/Load Inspections	40
Property Operator (Grower, Government) – 20	
Pest Control Business (Agricultural, including Maintenance Gardener) – 20	
V. Fumigation Monitoring Inspections	1,475
Field – 65	
Aluminum Phosphide – 10	
Structural Branch 1 (PRAMR) Complete Inspections – 200	
Structural Branch 1 (SFEP) Complete Inspections – 200	
Structural Branch 1 (PRAMR & SFEP) Partial Inspections – 1000	
VI. Headquarters/Employee Safety Records Inspections	120
Property Operator (Grower, Government) – 40	
Pest Control Business (Agricultural, including Maintenance Gardener) – 55	
Structural Pest Control Operator – 25	
VII. Permit Monitoring	175
Pre- site Evaluations (5%) – approximately 160	
Use Monitoring-Non Ag Permit Holders (100%) 15	

XIII. Pest Control Business Record Inspections	75
Agricultural-40	
Structural-35	
IX. Pest Control Dealer Record Inspections	10
X. Agricultural Pest Control Advisor Record Inspections	5
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Total Compliance Monitoring Inspections	2,290

C. ENFORCEMENT RESPONSE

- 1) The Enforcement Branch Liaison (EBL) will be notified in a timely manner of all ACP/SCP hearings as soon as they are requested by the respondent.
- 2) The EBL will be notified in a timely manner of any enforcement cases referred for either licensing action to agencies such as the Structural Board or referrals for city/district attorney prosecution, etc.

The Orange County Enforcement Response program has consistently been found to meet DPR standards with no corrective actions needed. ORA CAC has achieved this through diligent self-evaluation of the current Enforcement Response program.

ORA CAC took a combined total of 722 enforcement and compliance actions during the CY of 2009, 2010 and 2011. This total included 95 Structural Civil Penalty Actions, 110 Agricultural Civil Penalty Actions, and 519 Notice of Violations and Warning Letters.

ORA CAC has placed great importance on the Enforcement Response plan using the Enforcement Response Regulations (ERR) drafted by DPR, to aid us in our enforcement actions towards industry.

Orange County's current Enforcement Response plan has provided a sound basis for consistency and appropriateness in the actions taken. The Enforcement Response program is made-up of the following components.

- 1) When a noncompliance is found, the program supervisor discusses the noncompliance with the field inspector to determine and review all necessary information.
- 2) ORA CAC will follow the Enforcement Response Regulations guidelines.

- 3) ORA CAC PUE Violation Review Committee, which consists of the Deputy Commissioner, Program Supervisor and County's PUE Advocate, reviews each case to consider the appropriate level of action to take.
- 4) A Notice of Violation or Letter of Warning is issued for virtually every noncompliance found to notify the respondent and document the noncompliance.
- 5) If an enforcement action is determined to be appropriate, a Notice of Proposed Action is developed and sent by certified mail to the respondent. Each Notice of Proposed Action is written by PUE Program Supervisor and reviewed by the PUE Deputy Agricultural Commissioner.
- 6) Civil penalty actions are tracked quarterly to ensure timeliness in issuance to the respondent and completion of each action.
- 7) ORA CAC staff attended the 2011 advocate training which was provided through DPR at the San Diego Agricultural Commissioner Weights and Measures Department.

To improve our enforcement response we will take the following actions:

- Minimize the time between the discovery of a noncompliance and initiating the appropriate action taken by scheduling Violation Review Committee meetings once every month or as needed.
- Enhance the existing ORA CAC civil penalty hearing process through appropriate in house staff training and by attending any future DPR training that covers this part of the program.
- Success of the ORA CAC enforcement program will be measured through improved compliance, particularly by companies and employees that have had prior enforcement or compliance actions taken against them.

D. TRAINING AND OUTREACH

The Orange County Training and Outreach program has consistently been found to meet DPR standards with no corrective actions needed. ORA CAC has achieved this through diligent self-evaluation of the current Training and Outreach program.

We seek to gain compliance amongst industry through education and outreach. We strive during the registration process to spend additional time with the person registering to explain what we are looking for during our inspections. We encourage industry to bring in their equipment so that we may verify that it is in proper working condition. We endeavor to educate industry through our continued participation with organizations such as PAPA, CAPCA, PCOC, Orange County Farm Bureau, the Strike Force Committee, private industry and the Structural Fumigator Enforcement Committee. Many of these

groups meet on a monthly basis. We participate in the annual open house event that OC Public Works hosts to reach out to industry and the public as well.

For the CY of 2012, 2013, and 2014, ORA CAC will conduct an outreach project designed to increase awareness of the regulatory requirements regarding licensing and registration as part of our goal to increase compliance rates amongst the landscape gardeners and pest control businesses. The outreach project will be conducted by posting licensing and registration information at all major pesticide retailer locations, which can also help to educate the public as well as pest control businesses who may be purchasing their pesticides from these retailers.

In the summer of 2012, we will hold another outreach session with various growers to educate growers prior to the next field fumigation season about the new regulations and label changes which are expected to go into effect in 2012 or early 2013.

In summary, ORA CAC will continue to maintain the high standards which DPR has set forth by internally monitoring and evaluating our PUE program, in accordance with the mutually agreed upon work plan that is set to be enacted as of January 2012.