



County of Tuolumne

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Tuolumne County Enforcement Work Plan Calendar Years 2013 – 2015

Only 14% of the total land area of Tuolumne County, approximately 202,000 acres, is used for agriculture. The majority of land, 78%, is federally owned land (US Forest Service, Yosemite National Park, and BLM). Tuolumne County's agriculture consists mainly of livestock production, rangeland, and timber production. Only 1.4% of its agriculture is made up of fruit, vegetable, field crop, and nursery production. Much of this 1.4% is grown without pesticides or with reduced pesticide use. As such, pesticide use is limited and in most cases consists of herbicide and rodenticide applications. For this reason, Tuolumne County prepares a three year work plan and performance evaluations are conducted by the Enforcement Branch Liaison (EBL) on a three year basis. Previous work plan evaluations noted no deficiencies.

Pesticide Use Enforcement Personnel Resources

The Tuolumne County Agricultural Commissioner's staff currently consists of:

- 1 Agricultural Commissioner
- 1 Senior Agricultural Biologist
- 1 Agricultural Biologist II
- 1 Department Support Technician

All staff participate in the Pesticide Use Enforcement Program to some degree. The Agricultural Commissioner provides the supervision for the program. Both the Senior Agricultural Biologist and the Agricultural Biologist II perform inspections, issue restricted materials permits and operator identification numbers, provide training to growers and applicators, and conduct investigations. The Department Support Technician is responsible for PUR data entry and general administrative support. Total department personnel hours devoted to the program average 1540 hours annually; equivalent to .75 FTE.

During the last work plan period (2010 through 2012) the department lost two staff. In 2010 the Deputy Agricultural Commissioner position was eliminated and supervision responsibilities were shifted to the Agricultural Commissioner. In 2012 the Ag Field Technician position was eliminated and all PUR data entry was given to the Department Support Technician. Together these two positions had contributed another .5 FTE to the program.

No further staffing reductions are anticipated and the department will continue to devote .75 FTE hours for the 2013 – 2015 work plan period.

I. Restricted Materials Permitting

Current Status Permit Evaluation

- Approximately 24 restricted materials permits and 78 operator identification numbers issued annually.
- Permits are valid for one year, expiring at the end of the calendar year (December 31) in which they are issued.
- Majority of permits are issued for phenoxy herbicides and strychnine.
- In 2011 one restricted material permit for aluminum phosphide was denied due to the inability of the permittee to comply with the new restrictions.
- Soil fumigations have not occurred in Tuolumne County. Should a request for the use for soil fumigants be submitted, the department will ensure compliance with permitting, conditions and Soil Fumigation Phase II Labeling requirements.
- Permits are only approved and issued by the two licensed and trained staff. Both the Senior Agricultural Biologist and Agricultural Biologist II possess current licenses in Pesticide Regulation and Investigation and Environmental Monitoring.
- Permittee is required to pass private or qualified applicator certification examination or, in the case of renewals, to complete the required continuing education hours as an option.
- County administers private applicator certification examinations and issues permits by appointment on an individual basis.
- Permit issuance and review takes approximately one hour.
- Private Applicator testing takes approximately one and one-half hour.
- Restricted Material Permit sites are evaluated prior to issuance to determine potential adverse environmental impacts or health effects based on:
 - Maps submitted by the applicant.
 - Review of adjacent and surrounding properties
 - Discussion with the applicant.
 - Staff knowledge of the local area and cropping systems
 - PRESCRIBE data base
- Permits and any subsequent amendments are entered into the CalAgPermits program and printed out for signature. CalAgPermits replaced the RMMS permitting program in 2011. The CalAgPermit system has allowed for a significant upgrade to the quality of site maps.
- Permits are issued to the operator of property or authorized representative (an employee, farm management firm, Pest Control Advisor (PCA), non-ag permits can be issued to a Pest Control Business.)
- Letter of authorization required for issuance to or signature of other than operator of property. All letters are updated annually.
- All permits are logged into two Excel spreadsheets: one to track permit/OIN issued and one for tracking submittal of Pesticide Use Reports (PUR).
- All agricultural permits are site specific. Maps are required showing the site locations listed on the permit. Homes, wells, adjacent crops and environment and sensitive areas

are identified on maps. Sensitive sites include areas adjacent to federal lands, locations at the ag/urban interface, waterways and endangered species habitat.

- Sites are designated by a four digit number associated with the applicant's permit number and a letter signifying the commodity produced. Site locations are identified on the map by their number. Some forestry permit sites are designated with unique site identification numbers that are provided by the applicants.
- Handouts reviewed with permittee at time of issuance:
 - Tuolumne County pesticide use requirements;
 - Restricted materials permit conditions
 - Application and commodity specific information requirements.
 - Notice of intent form and instructions
 - Pesticide use report forms and instructions. Online use reporting through the CalAgPermits system is encouraged and individual instructions and training are provided.
 - California restricted materials list.
 - Pesticide Safety Information Series (PSIS) A or N.
 - Employee pesticide safety training forms.
 - Personal Protective Equipment (PPE) and Respiratory Protection requirements.
 - Endangered Species information.
 - Copy of pesticide Special Local Need (SLN) if required.
 - List of beekeepers adjacent to the property to be treated if applicable.
- The county offers a minimum of two 2.5 hours of continuing education classes each calendar year. Topics include laws and regulation review and update, identification of important local weed and vertebrate pests, use of appropriate herbicides and rodenticides, and calibration of equipment. Over the last three years attendance had ranged from 25 to 55 participants per class.
- For renewals, prior year permit files are reviewed for PURs submitted, non-compliances and inspections to determine any potential problem areas.
- 17 Notices of Intent (NOIs) to apply Restricted Materials were received in 2010, 12 in 2011, and 9 in 2012. Higher NOI numbers in earlier years were due to peak rodent populations increasing the number of rodenticide applications.
- 24 hour NOIs are required.
- NOIs are accepted by telephone to the main telephone line, fax, or in person and are monitored between 8 am-5 pm, Mondays –Fridays. After hours NOIs are picked up by voice mail which can be accessed 24 hours/7 days per week.
- NOI's received are logged into an Excel Spreadsheet for tracking purposes.
- Licensed staff reviews NOI for consistency with the Restricted Materials Permit and to evaluate any hazards of the proposed application.

Planned Improvements

- The quality of site maps has greatly improved through use of the CalAgPermits. Further improvements to maps can be achieved by careful review of maps to ensure inclusion of well and endangered species locations on all site maps.

- Continue training staff on the use of CalAgPermits system focusing on the use of system queries to improve efficiencies and effectiveness of the permit issuance process.
- Staff will continue to focus on evaluating the use of rodenticides by Restricted Material Permit and Operator Identification Number holders to determine the need to issue permits for the anticoagulants that have become restricted materials.
- Continue the encouragement of online submittal of use reports.
- Review submittal of use reports at the time of permit/OIN issuance with each applicant. Obtaining PURs in a timely manner has been a consistent issue.
- Evaluate the use of CalAgPermits for the online submittal of NOIs. Currently the system is capable of receiving NOIs from applicators, but Tuolumne County lacks the process and ability to retrieve and review the NOIs in a timely manner.
- Tuolumne County issues 24 restricted material permits annually, but less than 10 NOIs were submitted for restricted material applications in 2012. Review the need for a restricted material permit versus an OIN with permittees at the time of issuance. Evaluate whether restricted material permit is needed.

Goals and Projected Deliverables

- Annually thoroughly review all restricted material permits and operator identification numbers to ensure site maps accurately depict surrounding environment and sensitive areas including well and endangered species locations and that restricted material permits are issued only when needed and only for pesticides that realistically may be used.
- Provide staff training to ensure annual restricted permit evaluation process is comprehensive and efficient.
- Provide instructions and guidance to permittees and OIN users for the on-line submittal of Pesticide Use Reports through the CalAgPermits program.
- Provide outreach and education seminars on new laws and regulations, label changes, restricted material status of rodenticides.

Measures of Success

- Change in the number of operators submitting PUR on-line
- Change in the number of restricted material permits converted to OINs
- Change in the number of delinquent pesticide use reports.

Current Status Site Monitoring Plan Development

- Approximately 250 annual sites are issued.
- Majority of NOIs are for the following restricted materials/crops:
 - Phenoxy herbicides for forest, received during April – July
 - Phenoxy herbicides for forage crops, received during January-March.
 - Phenoxy herbicides for noxious weed control, received during January – May.
 - Paraquat for wine grapes, received during January through April.
 - Strychnine for forest received May to November.

- Vikane for structural fumigations, average 3 per year.
- Tuolumne County has no Ground Water Protection Areas
- Currently there are no schools adjacent to application sites
- Sites to evaluate are based on:
 - hazard of the pesticide
 - impacts to apiaries
 - applications near roads and residences
 - environmental conditions and sensitive sites
 - general weather trends
 - surrounding cropping systems
 - employee handlers
 - compliance history
- Because so few restricted material applications occur in Tuolumne County, staff strives to conduct as many pre-application site inspections as time will allow. A pre-application site inspection was completed on 33% of the NOIs submitted in 2010, 2011, and 2012.

Planned Improvement

- Increase efforts to obtain recommendations to better evaluate risks associated with proposed applications.
- Better coordinate site monitoring for forestry applications that are located in remote areas and require entrance behind locked gates.

Goals and Projected Deliverables

- Continue to conduct pre-site applications above the 5% required rate.
- Assure newly permitted sites are adequately monitored.
- Communicate site monitoring priorities to staff and train staff in strategies to achieve those monitoring priorities.

Measures of Success

- The number of pre-application site inspections performed compared to the number of NOIs received.
- The percentage of proposed applications on new restricted material sites evaluated through the pre-application site inspection process.
- Number of recommendations received and reviewed.
- Trends in pre-application site inspections performed according to site monitoring priorities.

II. Compliance Monitoring

Tuolumne County's Compliance Monitoring program suffered during the last work plan period (2010 through 2012). Prior to 2010 the majority of inspections were performed by the Deputy Agricultural Commissioner and a Senior Biologist who left Tuolumne County

in 2009. The remaining Senior Biologist who had been assigned to other duties was reassigned to the Pesticide Program. This biologist had both County Inspector PUE licenses but had limited pesticide program experience. In addition a new biologist with no pesticide program experience or licenses was hired in late 2009. In 2010 and 2011, PUE program hours were spent on training, learning the permitting processes, learning investigation procedures, and obtaining licenses. In 2012 PUE hours focused on implementing the CalAgPermits program.

Current Status Comprehensive Inspection Plan

- During the 2010 – 2012 work plan period the following compliance inspections were conducted.
 - 2010: 3 Application, 16 Headquarter, 1 Structural Fumigation, 20 Record Inspections
 - 2011: 10 Application, 1 Headquarter, 2 Record Inspections
 - 2012: 8 Application, 9 Headquarter, 1 Record Inspection
- The number of non-compliances found during the 2010-2012 work plan period
 - 2010: 13 Application, 4 Headquarter, 3 Structural Fumigation, 6 Records
 - 2011: 7 Application, 2 Records
 - 2012: 2 Application, 5 Headquarter
- Inspections are performed by two licensed and trained staff: Sr. Agricultural Biologist and Agricultural Biologist II
- The majority of applications are non-restricted material applications.
- The majority of inspections are conducted on restricted material application of phenoxy herbicides/paraquat and strychnine and on Landscape Maintenance Gardeners and Structural Pest Control Businesses in the urban areas.
- Monitor use of rodenticides to ensure compliance with the new status of anti-coagulants as restricted materials and recent U.S. EPA approved rodenticide label changes.
- Targeted inspection are prioritized by
 - restricted material applied
 - sensitive and high profile sites
 - compliance history
 - employee applications
 - location of application
- The frequency of headquarters inspections depends on the level of compliance. PCO Businesses Headquarter, Dealer, and PCA inspections are performed at least once every two years and Grower employee Headquarter inspections are performed annually.

Planned Improvement

- Implement seasonal surveillance program to locate and inspect OIN applications of non-restricted herbicides in pastures/rangeland and fungicides and insecticides on wine grapes, apples and stone fruits.
- Attempt to increase structural inspection activities of Branch 1, 2, and 3 applications.
- Ensure Structural and Landscape Gardener inspections include evaluation of compliance with Non-Ag Surface Water Regulations

- Consistent review of inspection forms for completeness and accuracy.
- Improve the tracking systems for inspections and non-compliances to ensure accurate reporting on PRAMR
- Increase the number of Non Ag Permit inspections performed.

Goals and Deliverables

- Implement a comprehensive compliance inspection program to ensure that pesticide uses are adequately monitored throughout the county.
- Maintain frequency of inspections for headquarters and dealers.
- Provide training to staff on pesticide inspection form completion focusing on common mistakes found and on understanding the criteria evaluated.
- Work with our Enforcement Branch Liaison to provide oversight monitoring.
- Establish a comprehensive tracking system of inspections, non-compliances, grower PURs, and investigations to ensure follow-up and accurate reporting.

Measures of Success

- Number and kinds of inspections performed
- Number and kinds of non-compliances found
- Number and kinds of errors found on inspections forms.
- Evaluation of tracking system for accuracy of data compiled and ability to identify required follow-up.

III. Enforcement Response

Current Status

During the 2010 – 2012 work plan period 13 Investigations were conducted: 2 Human Effects-Antimicrobial, 8 Human Effects-Other, and 3 Environmental Effects. Eight of the Human Effect Investigations involved homeowner’s misuse of pesticides and were not related to agricultural, industrial, or structural use. The other two human effects investigations occurred in an industrial setting. One was an antimicrobial incident and the other resulted in a Notice of Violation to the company with a Decision Report completed by the Agricultural Commissioner explaining why an administrative civil penalty was not sought.

- All pesticide-related complaints and reports of illness that are received by the office are investigated. Investigations are conducted by two trained staff: Sr. Agricultural Biologist and Agricultural Biologist II.
- An investigative report is completed for each pesticide-related episode.
- All investigation and complaint reports are reviewed and approved by the Agricultural Commissioner.
- All of the investigation reports, once complete, are submitted to CDPR.

During the 2010-2012 work plan period seven warning letters/Notices of Violation were issued. Five of the seven compliance actions were for first time Class C violations. However, 2 two of the Notices of Violations resulted in NOPAs and administrative civil penalties being assessed. One was the result of repeat Class C violations and the other was a result of Class B violations involving material being left unattended in a residential area. None of the violations were of such a nature to require referral to District Attorney.

- All actions are discussed with the Commissioner prior to implementation
- Compliance and enforcement actions are prepared by licensed staff.
- All actions are reviewed and signed by Commissioner.
- The Enforcement Response Regulation, as outlined in 3CCR section 6128 will be followed to determine most appropriate action when violations are identified.
- For civil penalty actions taken by the Commissioner, 3CCR section 6130 will be followed.
- Decision reports are written in accordance with the Enforcement Response Regulations.
- All NOPAs provide respondents with detailed information on alleged violations, proposed fine level, their right for an opportunity to be heard, and the 'Preparing for your Administrative Hearing' pamphlet.
- Copies of inspection reports and actions are maintained in Operator Identification Number/ Restricted Materials / permit or business files.
- Educational seminars and outreach to the regulated community include updates on the Enforcement Response Regulations

Planned Improvement

- Arrange for staff to receive DPR training related to investigations and enforcement.
- Take a more aggressive enforcement approach to habitual pesticide use report violations.
- Improve the internal tracking systems for investigations and enforcement actions.
- Ensure timely report completion and enforcement action initiation.

Goals and Deliverables

- Apply the Enforcement Response Regulations to ensure enforcement actions are rendered fairly, consistently and swiftly.
- Timely completion of investigations and initiation of enforcement actions.
- Investigation reports that are accurate and complete.
- Continue consultation with our Enforcement Branch Liaison for guidance on investigations and appropriate enforcement response.
- Ensure that staff is thoroughly trained in investigative techniques and processing of enforcement actions.
- Establish a comprehensive tracking system for inspections, non-compliances, grower PURs, investigations, and compliance and enforcement actions to ensure the principals of the Enforcement Response Regulations are met.

- Continue outreach to regulated community regarding the Enforcement Response Regulations and repeated violated code sections.
- Refer cases to the District Attorney or to DPR for state action when appropriate.

Measures of Success

- The improvement in the quality of investigations and achievement of consistent enforcement response.
- Reduction in time to complete investigations and initiate enforcement action.
- Decrease in repeat non-compliances by violators.

Summary of County Priorities and Other Pesticide Regulatory Activities Included in this Work Plan

- Attempt to increase structural inspection activity of Branch 1, 2, and 3 applications (pages 5 and 6)
- Training of county staff on pesticide laws and regulations, CDPR policy, and compendiums: Continue to evaluate our training process and develop training methods, including PUE core program elements, access to training modules, and CDPR /Structural workshops. Staff continues to attend training sessions on structural workshops, hearing advocates, tribal communication and interaction when possible. Utilize CDPR staff and resources in the staff training process. (Pages 5, 7, and 9)
- Regulatory outreach and education: provide training and outreach to growers, applicators, pest control advisors and the general public. Target audience: QAL/QAC, PAC and growers. (Pages 3, 4, 8, and 9)
- Review investigations and cases for possible referral to CDPR for state action (ENF 09-18): coordination with DPR EBL on all priority cases, sensitive or high level incidents, complaints, or other cases which might have multi-county or statewide applications for guidance on investigation and enforcement response (Page 8)
- Ensure compliance with recent U.S. EPA approved rodenticides label changes: Outreach to community, particularly the ranchers, with respect to the change to federally restricted pesticide for rodenticides use (anticoagulants) as well as the agricultural use only label restrictions. (Pages 4 and 6)