dpr

Department of Pesticide Regulation

Brian R. Leahy
Director

Edmund G. Brown Jr.
Governor

3210 Beacon Blvd.
West Sacramento, CA 95691

November 25, 2014

Mr. Richard B. Price
Butte County Agricultural Commissioner
316 Nelson Avenue
Oroville, California 95965

Dear Commissioner Price:

Our office has received and approved your request to extend your county's current County Work Plan (FY 2013-2014) through the end of FY 2014-2015 (June 30, 2015).

If you have any questions or need additional information, please contact me or your Enforcement Branch Liaison. I look forward to continuing a cooperative and productive working relationship with you and your staff.

Sincerely,

Ken Everett
Senior Environmental Scientist
Department of Pesticide Regulation, Enforcement Branch
Northern Regional Office
(916) 376-8960

cc: Mr. George Farnsworth, Chief, Enforcement Branch
Mr. Joe Marade, DPR Agricultural Commissioner Liaison
Mr. Navid Khan, Butte County Assistant Agricultural Commissioner
Mr. Jim Shattuck, Enforcement Branch Manager
Mr. Roy Hirose, Enforcement Branch Program Specialist

BUTTE COUNTY PESTICIDE USE ENFORCEMENT WORKPLAN FOR 2013

MISSION STATEMENT

- Protect the people of Butte County in occupational and non-occupational settings and their environment, while allowing safe and effective pest control operations.

PERSONNEL RESOURCES:

OROVILLE-HEAD QUARTER

- 1 Assistant Commissioner @ 60%
- 1 Deputy Agricultural Commissioner/Sealer @ 60%
- 1 Deputy Agricultural Commissioner/Sealer @ 20%
- 1 Agricultural Biologist III @ 60%
- 1 Agricultural Biologist 1 @ 50%

CHICO-DISTRICT

- 1 Supervising Agricultural Biologist @ 60%
- 1 Agricultural Biologist III @ 60%
- 1 Senior Agricultural Biologist @60%
- 1 Agricultural Biologist I @ 60%

GRIDLEY-DISTRICT

- 1 Supervising Agricultural Biologist @60%
- 1 Agricultural Biologist 1 @ 60%
- 1 Agricultural Biologist III @60%
- 4 of our staff members are bilingual in Spanish and Punjabi and are compensated by the County of Butte for their bilingual skills.
- All but one of our PUE staff currently licensed, trained and experienced, with one exception. Pesticide Use Enforcement experience ranges from 1 to 25 years.

Other Assets:

- Each PUE Biologist, Supervisor, and Deputy has a vehicle for his/her exclusive use.
- Each PUE Biologist, Supervisor and Deputy has a cell phone for his/her exclusive use.
- Each PUE Biologist, Supervisor, Deputy and clerical has a dedicated computer workstation with individual county email address and internet access.
- Each PUE Biologist, Supervisor, and Deputy has a digital cameral for his/her exclusive use.
- In addition, we have a PUE duty workstation and 3 dedicated workstations for permit issuance. (Permits can also be issued at each person's individual workstation)

CORE ENFORCEMENT PROGRAM

A. Restricted Materials Permitting

Expected Workload 2011/2014 (per year based on past experience and current changes)

- Restricted Material Permits – 807
- Operator ID's - 175
- Notices of Intent – 3500
- Total Agricultural Production Sites Issued –5086

Permits Issuance

- Restricted Material Permits are issued for one year or less for field crops and three years for operators with permanent crops with good use report submittal history. Permit sites are evaluated prior to the issuance of the permit utilizing our statewide Cal Ag Permit system (CAPS) with an automatic check for sensitive areas.
- Each site to be issued is identified in (CAPS) down to the field level using aerial imagery and prior year site boundaries. Residential areas, schools, churches, waterways, parks, and other sensitive areas are noted on permit maps we produce using (AG-GIS), to assist in evaluating sites to determine if a substantial adverse impact may result from restricted material applications. Surrounding crops are updated on a daily basis. Feasible alternatives to restricted pesticides are considered and implemented when appropriate.
- The Biologists ensure that permit applicants are qualified and have met the requirements to hold a restricted materials permit. Private applicators and qualified applicators 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.
- Permits are issued using the (AG-GIS), which allows instant access to the permittee's pesticide use report history, down to the site level if needed. If reporting inadequacies are noted, permits are withheld until the issue is resolved and compliance action evaluated.
- Permits are issued by licensed and qualified staff whose experience ranges from 1 to 35 years in the area of pesticide use enforcement. From mid-December through the beginning of February, as many as five PUE Biologists are assigned to the office to handle permit issuance. Annual training on the policies and procedures used to issue permits and properly identifying sites is given by the PUE Deputy, Supervising Biologist IV and/or the DPR Enforcement Branch Liaison.
- Non-agricultural permits are currently issued to Pest Control Businesses subsequent to a review by a county Biologist who determines if their activities come under the umbrella of a non-ag situation.
- A future goal of the department will be to successfully migrate to the statewide Pesticide Permitting and Use Reporting Program (PPUR).

Deliverables

- Annual and seasonal staff training prior to permit issuance season and address certification requirements.

- Annual and seasonal updates of sensitive area layer and document environmentally sensitive areas on permit maps.
- Frequent reviews of pesticide permits for accuracy.
- Notify all permit holders of the correct certification requirements through an annual letter.

Site Monitoring Plan

- Notices of Intent (NOI's) are recorded on the appropriate form and are received via fax, voice mail and walk-ins. A minimum of one PUE Biologist is assigned to the office on a daily basis. This PUE office duty person reviews all NOI's for accuracy and completeness using RMMS and specific GIS sensitive area tools. They are then assigned to the appropriate geographical "area". The county is divided into four "areas" and PUE Biologists are assigned to each of these areas. PUE Biologists also perform weekend and Holiday duty, to ensure timely review of NOI's.

NOI Monitoring

- The PUE Biologists assigned to the four areas within the county review the NOI's and determine which of the proposed applications are in need of pre-application inspection. This decision is based on many factors, such as the surrounding environment, distances to sensitive areas (residential areas, schools, parks, etc.), historical complaint areas, application method (air/ground), pesticide formulation (fumigant, liquid, dust), pesticide used, commodity, and applicator. A pre-application site inspection is performed on at least 5 % of all NOI's. All fumigant applications are given priority for pre-site inspection.

Deliverables

- Nearly all fumigant (Metam Sodium, Methyl-Bromide, etc) applications are inspected, assuring the buffer zones are both accurate and adequate and that other mitigating conditions are being complied with.
- Pre-application site inspections on a minimum of 5% of notices of intent received.
- Pre-site aerial applications of any restricted material near sensitive areas.
- Pre-site cotton defoliation applications near sensitive areas.

Expected Program Changes (general terms)

- Continue emphasis on online submission of Pesticide Use Reports.
- Change in general permits conditions to restrict applications of all restricted materials within ¼ mile of a school during school activities when children are present.

B. Compliance Monitoring

Expected Workload

- Pesticide Use Monitoring Inspections - 80
- Pesticide Mix-Load Inspections - 60
- Structural Inspections & Mix loads- 20
- Records Audits -60
- Field Worker Inspection-5
- Fumigation field-100% (est. 10)
- Branch 1 fumigations-100%(est. 2)

- Commodity fumigations- 40%(est. 20)
- Investigations – as needed.
- Pre Application Site Inspections – 5 % of NOI's
- Pest Control Business, Advisor and Farm Labor Contractor and Structural Pest Control Registrations - 276

Goal

- Conduct compliance monitoring activities to reduce the risk of harm to people in occupational and non-occupational settings and provide environmental protection.

Comprehensive Inspection Plan

- Pesticide Use Monitoring inspections are conducted on growers and Pest Control Businesses. We prioritize these inspections based on our experience with compliance and the potential hazard posed by the application. Method of application, material being applied, compliance history of the applicator, proximity to sensitive areas and other criteria guide our decision to inspect.
- Field Worker Safety inspections are conducted only in fields where there has been a pesticide application in the past 30 days. This concentrates our resources on fields with the highest possibility of hazard. We also consider proximity to other treated fields, compliance history of the employer and the potential for fieldworker exposure to treated surfaces.
- Records Audits and headquarter inspections are conducted as a follow-up for all inspections where violations are discovered. In addition, we audit pest control businesses, pesticide dealers and pest control advisors every third year.
- Biweekly staff meetings are scheduled for coordination, dissemination of new information and "tailgate" training sessions.

Timely Initiation and Completion of all Non-Priority Investigations

- We will exceed DPR established standards for beginning non-priority investigations.

Timely Priority Episode Initiation and Reporting

- DPR's established standard for beginning priority investigations is that all priority investigations will be initiated as soon as possible and within 48 hours of notification. We will begin all priority investigations as soon as possible and within 24 hours of notification.
- We will follow DPR timelines for completion of investigations, including requesting extensions when that becomes necessary.

Development and Use of Investigation Plan

- We will use the Butte County Hazardous Material Incident Response Plan and an investigation plan during all incident response activities.
- We will use the "Responding to Non-Occupational Pesticide Use-Related Exposure Episodes" guidance documents for those incidents that meet SB 391 criteria.

Thorough Report Preparation

- An extensive review program conducted by the Supervising Biologist and Deputy will ensure thorough report preparation.

Expected Program Changes (general terms)

- As a result of our increased emphasis on monitoring of high risk applications with potential to create a drift incident, we have reached a relatively high level of safety and will refocus some of our attention to Structural Pest Control and Maintenance Gardeners.
- 10% increase in inspections on Structural Pest Control and Maintenance Gardeners with resultant cuts in Field Worker Safety inspections

Deliverables

- Target pre-application site inspections and use monitoring inspections of Metam Sodium and other fumigants within ½ mile of sensitive areas.
- Target pre-application site inspections of aerial applications near sensitive areas.
- Comply with DPRs Inspection Procedures Manual.
- Timely response and completion of all priority and non-priority investigations.
- Timely response and completion of all complaint investigations.
- Comply with DPRs Investigation Procedures Manual.

C. Enforcement Response

Expected Workload (based on past experience and current changes)

- Agricultural Civil Penalties - 5
- Structural Civil Penalties - 0
- Cases Referred to DPR or District Attorney – When applicable.
- County Registration Actions – 5
- Violation Notices - 20
- Outreach Sessions - 40

Goal

- To protect the public and environment of Butte County by taking timely, effective, and fair enforcement action against pesticide violators.

Fair, Consistent and Timely Enforcement Response

- Each PUE Biologist conducts their own investigations, writes up their episode investigations and prepares a complete enforcement case file with supporting documentation. Consistency and quality control is assured through extensive review by the Supervising PUE Biologist and PUE Deputy.
- We will monitor each incident investigation and write-up to insure that we meet DPR established time-lines for completion.
- All compliance and enforcement action decisions will be based on the CCR Pesticide Enforcement Regulations.

Respond to All Violations

- Each violation will be documented with a violation notice and/or and enforcement action consistent with the CCR Pesticide Enforcement Regulations.

Match Response to the Violation to Provide Sustained Compliance

- Each violation will be documented with a violation notice and/or and enforcement action consistent with the CCR Pesticide Enforcement Regulations.
- The history of each entity violating laws or regulations will be considered prior to the issuance of any compliance or enforcement action.
- The compliance history for each permit holder, PCA, PCB, etc. will be maintained in a separate "compliance file" to facilitate timely and complete review of each entity's compliance history.

Expected Program Changes (general terms)

- Butte County will follow the CCR Pesticide Enforcement Regulations. This will result in an increase in the number of enforcement actions taken. The amount of the proposed fine for each enforcement action will increase. This combination of more actions at higher penalties will provide increased deterrence for the violator and the entire regulated community.
- Continue outreach to communicate the changes in the CCR Pesticide Enforcement Regulations.

Deliverables

- Conduct follow up inspections when violations are discovered.
- Compliance history will be reviewed before initiating compliance or enforcement action.
- Comply with the CCR Pesticide Enforcement Regulations when initiating enforcement action by classifying the type of violation, determining appropriate action and using progressive enforcement.

D. Pilot Project to concentrate use monitoring in sensitive areas

Expected Workload

- NOIs to be reviewed/entered – 350
- Inspection frequency – daily

Goal

- To reduce the number of routine pesticide inspection representing little or no risk to adjacent crops or environment and increasing the level of surveillance of sensitive applications and application sites. These would be identified as but not limited to applications of pesticides taking place adjacent to or nearby riparian water ways ie, creeks, rivers etc., applications in agricultural sensitive areas and the applications that are taking place where agriculture and urban areas interface.

Implementation

- The pilot project is designed to provide more data on applications taking place in designated sensitive areas of the county via the use monitoring inspection program.

Deliverables

- Staff conducting surveillance all work days and weekends during peak pesticide application months.
- Staff would reduce the number of routine use monitoring inspection usually conducted at various pco Headquarters and concentrate on areas that are identified as sensitive to better serve the departments goals.
- When applicable require 24 or 48 hour notice of intent for production agriculture restricted materials applications in the pilot project area.
- Use monitoring inspection will be conducted in these areas to assure the proper applications of pesticides are taking place in the identified sensitive areas.
- All offsite movements of products will be identified with non compliances noted on the use monitoring forms.
- Provide conflict resolution in the pilot project area where urban interface with agriculture and sensitive sites do not allow for successful applications.

IV. PRIORITIES AND OTHER PESTICIDE REGULATORY ACTIVITIES

A. Non-Fumigant VOC Regulation Compliance (San Joaquin Valley), when regulations are final: *Does not apply to Butte County*

B. Compliance with sole fumigation Phase II labeling*: BCDA staff has attended all DPR sponsored training sessions for the Soil Fumigant Training. These applications have always been high priority. BCDA strives to monitor all soil fumigations, including orchard replant and tree-hole fumigations with either a pre-application site or use monitoring inspection. BCDA works closely with CDPR, U.S. EPA, registrants and applicators to facilitate the implementation to the Phase II soil fumigant training in 2013. There are significant areas of this that are not resolved, difficult to interpret and still may change. BCDA is participating with Tehama County to work towards resolution of questions about dazomet use restrictions for tree-hole fumigations.*

C. Chloropicrin mitigation*: Measures will be implemented when available. There is limited use in Butte County. BCDA will address as applicable*

D. Structural inspection activity Branches 1, 2 & 3*: BCDA has few Branch 1 applications and perform at least one inspection for each operator every year. BCDA will continue to focus on resident operators for Branch 2 and 3, performing a headquarters or use monitoring inspection annually and will emphasize the new surface water regulation.*

E. Efforts to work collaboratively with the State Regional Water Quality Board and DPR Environmental Monitoring Branch regarding applications of diazinon, chlorpyrifos and diuron near water bodies: *BCDA has not been asked by any agency to assist with water quality issues, but would do so if approached.*

F. Staff Training: *The county work plan will be reviewed at regular staff meetings and staff will be focused to address goals. Staff will attend training provided by DPR when practicable.*

G. Compliance with pesticide use at schools*: During routine headquarters inspection of pest control businesses, BCDA will identify any pesticide usage at schools and verify compliance with school pesticide use reporting.*

H. Secured Web Access (SAW) for pilot counties: *Does not apply in Butte County*.

I. Compliance with Ground Water Regulations (i.e., participation with DPR's Environmental Monitoring Branch on related studies): *as with E, above, BCDA has not been approached to do this work, but would do so if requested.*

J. Chilean Fruit Air Monitoring (CFAM) and other commodity fumigation focused activities*: Does not apply to Butte County*

K. Regulatory outreach and education: *Sponsor and participate in one grower meeting each year. Also provide monthly attendance and participation at Farm Bureau, Farm Service Agency and other meetings.*

L. Investigative Review*: BCDA meets regularly with the EBL to discuss possible enforcement action, including referral to DPR for state action.*

M. Compliance with Non-Ag Surface Water Regulations: *BCDA will incorporate this into the compliance monitoring scheme. Goals for this activity are described above. Surface water regulations will be emphasized at appropriate use monitoring inspections and headquarters inspection.*

N. Federal rodenticide regulation compliance: will be ensured by requiring certification and enforcement of use restrictions*. This is also evolving, as second generation rodenticides are*

being evaluated by U.S. EPA. Second generation bait requirements will be addressed as applicable.

O. Focused inspections on employers with employees: *At least 25% of all headquarters inspections, as identified by use report data, will be targeted at employers who have employee handlers who handle pesticides of concern (highly toxic and/or organophosphates/carbamates).*

P. DPR reporting for report of loss related to bee kills: *BCDA will continue to maintain a log of complaints and track those regarding bee losses may be associated with pesticide applications*.

Q. Collaboration with DPR in addressing U.S. EPA activities or requests: *Should this arise, we will coordinate our efforts with DPR and U.S. EPA.*

R. Other: *Historically, we have provided review, feedback and local support to state and federal projects. Thiobencarb (Bolero) and other rice herbicides, including Clincher, propanil and Regiment, as they relate to water hold inspections and/or application buffer distances.*