

San Joaquin County Pesticide Use Enforcement Work Plan

EWP
1/2014 – 12/2016

Effective Date: January 21, 2014

Planning and Evaluation Cycle

Pursuant to 3CCR section 6394 “Performance Evaluation”, the Department of Pesticide Regulation (DPR) Director shall evaluate each county pesticide use enforcement (PUE) program at least every three years. It is agreed upon between DPR and San Joaquin County (SJC) that evaluations shall take place on an annual basis to adhere to DPR standards as described in the PUE Standards Compendium.

The recent recession severely impacted San Joaquin’s economy and lead to major reductions in the County’s major revenue sources. These impacts led to a decline of 4,000 hours of licensed pesticide use enforcement between 2008 and 2013. The double digit revenue decline (26%) will have a long lasting impact on PUE programs and services.

Staffing Level & Program Impacts

Goals projected for the Enforcement Work Plan (EWP) include an Enforcement staff with experience ranging from novice to accomplished. Maintaining the number of inspections to meet our goals will be challenged by the Biologists ability to gain enforcement experience and their time being divided between surveillance and increasing phytosanitary inspection duties. It is anticipated that additional time will be diverted from District Biologists PUE activities to support quarantine pest efforts as well. An anticipated retirement from the Deputy level creates the possibility of upward movement, potentially leaving a Biologist position vacant. Long-range challenges include enabling staff to conduct investigations and monitoring in a language all parties can understand. Resources will need to be found for language barrier training, contracting translation services or other method to assure completeness in all facets of pesticide enforcement.

PUE Personnel Resources

At full staffing levels the following personnel dedicate time to San Joaquin County’s PUE program.

12 – Senior Agricultural Biologist, Agricultural Biologist I, or Agricultural Biologist II employees licensed by the California Department of Food and Agriculture (CDFA) in Pesticide Use Regulation and Investigation and Environmental Monitoring.

1 – Deputy Agricultural Commissioner, licensed by CDFA in Pesticide Use Regulation and Investigation and Environmental Monitoring, responsible for supervising 3 District Biologists, 1 Urban Biologist and overall PUE program performance.

2 – Deputy Agricultural Commissioners licensed by CDFA in Pesticide Use Regulation and Investigation and Environmental Monitoring, responsible for supervising the remaining 8 Biologists and assigned departmental program responsibility in non-pesticide related areas.

Support for the above licensed pesticide activities is provided by: 1 – Information Systems Analyst II providing computer support and maintenance of an agricultural field border project, CalAgPermits mapping, and hardware performance; 1 – Office Assistant Specialist providing full-time clerical pesticide program support, and 7 – Office Assistants providing additional part-time clerical pesticide program support.

I. Restricted Materials Permitting

A. Current status

- a. Staff: 10 Biologists - 9 District Biologists, 1 for each of 9 geographical areas encompassing the county, prepare the Agricultural and Nonagricultural Pesticide Use permits for their area. Staff is located in 3 offices; Lodi (north), Stockton (central) and Simms Station (south). Commercial pesticide use permits (i.e. Maintenance Gardener) are prepared by 1 Urban Biologist located in the Stockton office.
- b. Number/Types of Permits: Approximately 1,900 restricted material permits (RMPs) and 200 operator identification numbers (OINs) are active in SJC. RMPs are issued on a multi-year and annual year basis. OIN's are effective on an annual basis only. Staff makes determinations regarding permit applicant qualifications and length of permit duration that are consistent and in compliance with FAC section 14007, 3 CCR sections 6420-6432, and the PUE Program Standards Compendium, Volume 3, Restricted Materials and Permitting.
- c. Permit Evaluation/Issuance: RMP sites are evaluated prior to issuance of the permit based on review of adjacent and surrounding properties noted on applicant submitted maps, discussion with the applicant, staff's extensive local field knowledge, PRESCRIBE online program and Graphical Information System (GIS) layers. GIS layers include a school layer pinpointing school structures as well as the school property and waterways. Permits are issued and managed using the CalAgPermits (CAP) software system. CAP incorporates our current digital imagery and GIS layers. Additional GIS layers such as endangered species locations, California State Parks, watershed boundaries, State Designated Wild and Scenic Rivers, Ground Water Protection Areas (GWPA) and 2,4-D special hazardous areas will be added in future CAP enhancements.
- d. When it is determined that a substantial adverse environmental impact is likely to occur from the use of a restricted material, staff evaluates potential mitigation measures, based on the local conditions, and includes them as a permit condition. The county has standard permit conditions that all permits are conditioned with as appropriate. A 1/8 mile buffer to schools has been added to all RMP's most recently. The county also follows DPR recommended permit conditions (e.g., methyl bromide, 1,3-dichloropropene, metam sodium and rice pesticides) when appropriate and uses information from previous year pest control evaluations and investigations to issue additional, more specific permit conditions.

- e. The county denies permits or notices of intents (NOIs) when there are feasible alternatives to reduce adverse environmental impacts. Permits are also denied because of a lack of certification of the applicant. NOIs are denied when adjacent sensitive areas are not identified in the permit or NOI, or a valid permit is not in effect for the use. When a permit is denied, staff fills out a paper permit form and marks “denied.” NOIs are noted as denied on the NOI form.

B. Planned improvement

- a. Continuous review of existing sensitive sites and the identification of new sensitive sites.
- b. Become efficient in using the mapping functions of CAP to measure distances between crops and sensitive areas (i.e. school layer).
- c. Insure that every non-agricultural use permit holder has a site evaluation or use inspection at least once per year.
- d. Analyze trends of permit non-compliances.
- e. Participation in CAP activities, such as flash mob testing, for continual system enhancement, as well as the PUE Deputy participates in a State forum of CAP county users.
- f. The PUE Deputy’s Fiscal Year (FY) 12/13 review of the 5% monitoring standard of all NOI’s received per 3CCR section 6436 found that we fell short of our commitment by less than ½ %. We have implemented a new monitoring rate of 6 % in order not to fall short in the future. An electronic NOI counter is available for Biologists to use. Fumigants are a high priority. Most fumigants (e.g. methyl bromide, potassium sodium, metam sodium, 1,3-dichloropropene, dazomet, sulfuryl fluoride and chloropicrin) are monitored at a higher than 5% rate, especially those near known sensitive areas.

C. Goals and Projected Deliverables

- a. Review and improve the business processes associated with the evaluation of RMP applications ensuring the protection of SJC residents and the environment while allowing for timely and effective pest control.
- b. Identify outdated and site sensitive pesticides for removal from RMP’s.
- c. Be proficient at CAP mapping tools that let us measure the exact field acreage to prevent over reporting of pesticide use.
- d. Discuss Pesticide Use Reporting (PUR) shortfalls or corrections with permittees during permit renewal.

- e. Promote the public web user PUR portal in CAP.
- f. Deliver all illness investigations within the required 120 day limitation.
- g. Outreach: SJC conducts educational outreach to provide opportunities for the regulated community to become knowledgeable in pesticide laws and regulations and meet continuing education (CE) requirements for renewal of county issued private applicator certificates (PAC) and DPR issued licenses. Outreach is in the form of both lecture style seminars and hands-on workshops. Our annual outreach and attendance include:
 - Annual grower meetings (6-day, 2-night) (1300 PACs and 100 licensees)
 - 1 Tracy PAPA seminar (250 licensees)
 - 1 Stockton PAPA seminar (300 licensees)
 - Annual Farm Labor Contractor License renewal seminar (70)
 - Annual Spray Safe event (300)
 - Annual Lodi Farm Safety Day (500 handler employees)
 - Additional seminars as resources allow.

D. Measures of Success

- a. The county will query the permit database generating data showing the types of permits issued, permit applicant certification type, and certification expiration date. Any problems noted will be returned to biologists for review. Mismarked and incorrect information will be updated to create accurate permit records.
- b. In the event permit applicants are not appropriately certified, permit holders will be notified and given the opportunity to comply. If they cannot comply their permit will be revoked and an OIN issued
- c. Collate feedback from questionnaires that outreach meeting participants are encouraged to fill out.

II. Compliance Monitoring

A. Current Status

- a. The PUE Deputy assures that all PUE staff has a copy of the most current inspection procedures manual, and advises when updates to the manual are available from the DPR website.
- b. The PUE Deputy provides periodic Inspection Procedures (general and form specific) training in conjunction with DPR staff.

- c. Supervisors ride along with each PUE biologist during inspection surveillance at least once per year to assure inspections are conducted according to policies and procedures.
- d. DPR staff and veteran district biologists ride along with new PUE staff for training.
- e. The PUE Deputy and immediate biologist supervisors review all completed inspection forms to verify that the appropriate inspection procedures are followed and give feedback to staff for training purposes.
- f. Headquarter inspections for handler training are conducted as follow-ups to worker safety violations found from field inspections or investigations.
- g. The PUE Deputy checks our Access database for the applicator’s compliance history, and periodic printouts of necessary follow-up inspections are forwarded to the appropriate district biologist.
- h. PUE Deputy attends quarterly PUE Deputy Group meetings to share, learn and be consistent with enforcement of other similar counties.
- i. The PUE Deputy’s review of the PUE inspections conducted this FY by the staff indicate that the inspections are generally complete and have been conducted according to the Inspection Procedures Manual and other DPR policies and procedures.
- j. Inspection goals are assigned to each district Biologist for the following types of PUE inspections. Recent inspection levels and compliance are shown below.

Site-Monitoring Plan Development

Inspection types	Completed Inspections			#of non-compliances		
	12/13	11/12	10/11	12/13	11/12	10/11
application	157	212	186	102	81	113
mix/load	61	110	59	9	7	11
field fumigation	2	20	14	0	0	0
commodity fumigation	19	16	16	1	0	3
field worker safety	9	10	14	4	4	4

- k. Partner with SJC Public Works, Solid Waste Division, at 16-1/2 day pesticide container recycling events at 3 county locations every year. Biologists inspect emptied containers for proper rinsing and acceptability for the recycler. 161,223 pesticide containers were inspected and kept out of the landfill in 2013.
- l. Collaborate with and provide PUR's throughout the year to the Central Valley Regional Water Quality Control Board and our local Water Coalition for their evaluation of pesticides in surface water.

B. Planned Improvement

- a. We currently have one bilingual, Spanish speaking biologist on staff and approximately 2 other biologists that will attempt using Spanish when conducting field inspections. All biologists have attended the Breaking Barriers training. An upcoming training provided by our Enforcement Branch Liaison (EBL) the Spring of 2014 will be the first of more in-house trainings for biologists to learn and practice asking questions in Spanish and hearing various appropriate answers back to complete field inspections. Interviewing Spanish speaking complainants for illness investigations will be another training session, presented internally or with DPR cooperation. Our resources cannot meet the changing demands involved in fieldworker inspections and interviewing bilingual complainants for investigations. Training in using Spanish in the field is only one tool that will take practice and time before a difference is felt.
- b. Because of enhancements and fixes to the CAP mapping module, Biologists can apply buffers to permit sites determining their proximity to sensitive areas, including schools, waterways, high traveled or populated areas, etc. This will help in selection of NOI's to target for pre-site evaluation as well as areas to monitor during pesticide application surveillance.
- c. Special effort to monitor rice sites where there is use of the targeted rice pesticides is made and we are successful in monitoring for seepage when inspecting for water holding compliance.
- d. Training for new and experienced staff on department identified "high" priority situations based on high non-compliance rates, pesticide by crop, environmental conditions, and other criteria identified in the goal and objectives listed above. This includes the goals set for increased monitoring of specific pesticides.
- e. Trends in the number of complaints, illnesses, and types of investigations (i.e. bee kills, and drift incidents) occurring, can't currently be analysed in our investigation tracking program. To review the basis for an investigation, the report is retrieved and read. For the Pesticide Regulatory Activities Monthly

Report (PRAMR), we capture the type of incident for the “Other” category of investigations only. A future statewide data gathering/tracking portal, California Pesticide Enforcement Activity Tracking System (CalPEATS), is being developed that will gather more information on investigations to meet the needs of DPR and CAC. The PUE Deputy is a member of the CalPEATS Technical Area Committee (TAC).

C. Goals and Projected Deliverables

- a. District staff knowledge is our main strength in implementing an effective site-monitoring plan. Eight of our current district biologists have 4 or more years field PUE experience and are well trained and knowledgeable.
- b. A commitment to implement measures that ensure a site-monitoring plan that takes into consideration pesticide hazards, high non-compliance rates, local conditions, cropping and fieldwork patterns and handler, permittee, and advisor compliance histories, and review of NOI's.
- c. Accomplish more field worker inspections. This will be encouraged through training.
- d. Work with Biologists to use the “remarks” section on the inspection forms to better document non-compliances found during the inspection.
- e. Current clerical resources can absorb the time needed to implement changes in our NOI business process, to facilitate local data entry and actual data entry of handwritten NOIs received via phone, fax or recorder.
- f. Work with our EBL to meet DPR oversight monitoring goals established for SJC.
- g. Provide training to staff on pesticide inspection form completion focusing on common mistakes on form completion and misunderstood criteria as found during routine form review by supervisory staff.
- h. Schedule staff to attend DPR workshops on any newly adopted regulations.
- i. Inform our Ag Industry through annual registration reminder letters and Grower Meetings about new regulations and areas of high non-compliance.
- j. Train Biologists with the expectation that new regulations will be understood and explained clearly to the regulated community. The Non-fumigant Volatile Organic Compound (VOC) regulation will be enforced during dealer inspections and in the field when reviewing application recommendations.

D. Measures of Success

- a. Baseline PUE monitoring goals are established and distributed to Biologists at the start of the FY, reinforced during the year and evaluated at the end of the year.
- b. The county will continue to track hours worked in pesticide use monitoring, pre-site applications and pesticide surveillance for the current fiscal year and compare them to hours worked in previous years to determine if full staffing and resource redirection positively impacted the amount of time spent in these areas.
- c. Numbers of inspections completed and dawn patrol hours worked will be tracked and compared to previous fiscal years.
- d. The Access PUE Inspection Tracking database will be used to generate a report on follow-up inspection success and will be compared to previous FY efforts.
- e. Evaluating the success of the improved staff activity reporting program (Project Costing) that better identifies time spent on activities. Periodic reminders to staff of the correct time codes to place activities under.
- f. Our 3 year history of number of investigations and number of Priority investigations follows:

Number Investigations / Number Priorities

FY	Human Ag	Human Antimic	Human Struc	Human Other	Env	Prop Loss	Other	Total
12/13	39/ 2	40/ 0	11/ 0	3/ 0	14/ 0	3/ 0	9/ 5	110/ 7
11/12	12/ 0	10/ 0	0/ 0	7/ 0	10/ 0	2/ 0	6/ 0	47/ 0
10/11	13/ 1	14/ 0	3/ 0	12/ 2	7/ 0	2/ 0	4/ 0	51/ 3

PUE Deputy and Biologist recognition of illness events and non-compliances from monitoring inspection review greatly influences the choice of topics for Outreach.

III. Enforcement Response

A. Current Status

- a. A review of inspections, investigations, and enforcement and compliance actions indicate that the cited sections accurately reflected the violations. The DPR

adopted Guidelines, Enforcement Response to Violations (3CCR section 6128) are followed.

- b. When staff identifies violations in the field, they issue an inspection form with the noncompliance marked. When a violation is determined from an investigation, a Violation Notice is issued.
- c. Warning letters will be issued for violations made by respondents when a more comprehensive description of the violation is appropriate.
- d. Our Access PUE database facilitates electronically tracking two-year histories for violators of pesticide laws and regulations. They also track a two-year history for repeat violations, as referred to in the Enforcement Response Regulations (ERR). A two-year history is also kept in the permittee/business files. Staff reviews the history of the violator in the database when they find noncompliances to determine if further action is appropriate. Querying issued notices of violations, noncompliances noted on inspection forms, and warning letters provides an entire overall compliance history for individuals or businesses.
- e. PUE Deputy has attended DPR training for Advocates and Elements of the Violation.
- f. The decision whether enforcement action is appropriate to take and the appropriate enforcement option to apply is determined after reviewing compliance history and the ERR, and then discussing the incident and history between the Biologist of the district in which the incident occurred, the PUE Deputy, the Assistant Commissioner and the Commissioner.
- g. The Notice of Proposed Action (NOPA) issued by the county advises respondents of the alleged violation(s), the proposed fine level, and their right for an opportunity to be heard. A brochure “Preparing for your Administrative Pesticide Penalty Hearing” and a copy of the fine guidelines are included with the NOPA. Fine amounts are categorized in a manner consistent with the fine guidelines in 3CCR section 6130.
- h. No structural actions were taken using Title 16, CCR section 1922.
- i. Three years of statistics below do not indicate a trend. There was a backlog of non-compliances (still within the 2 year timeframe) that went to Agricultural Civil Penalty (ACP) in 2011. Field staff is gaining experience in the field, and inspection numbers, as well as documenting non-compliances, will improve.

	ACP's	NOV's	WL's	FY Non-comp's
2013	18	15	3	13/14 (ytd) 67
2012	17	20	2	12/13 163
2011	31	13	7	11/12 97

B. Planned Improvement

- a. Meet regularly with staff to promote thorough understanding of code to ensure uniform enforcement.
- b. Arrange for staff to receive DPR or CAC training related to enforcement and investigations.
- c. Supply office supervisors and biologists with investigation come-up reports and meet monthly to review the progress on outstanding investigations.
- d. Update EBL on investigation progress and need for extensions. Endeavor to complete all investigations according to regulatory time constraints.

C. Goals and Projected Deliverables

- a. A commitment to follow the statewide ERR by ensuring enforcement actions are rendered fairly, consistently, and swiftly.
- b. Provide an Enforcement Response to Violations update to the regulated community during grower meetings and PAPA continuing education seminars.
- c. New and established staff scheduled to attend Investigative Techniques Training.
- d. Timely initiation and completion of all non-priority investigations.
- e. Timely priority investigation initiation and reporting.
- f. Reassignments of workloads when possible to assure timely report completion.
- g. Thorough report presentation.
- h. Thorough report review by management.
- i. Internal tracking database for illness investigation assignment and progress monitoring.

E. Measures of Success

- a. Generate periodic and year-end reports that detail enforcement responses for analysis of our stated goals.
- b. Generation of monthly progress reports for tracking investigation completion and year-end analysis for timeliness of investigation completion.

Priorities and Other Pesticide Regulatory Activities

Integrated within the work plan are our specific county priorities and other pesticide related activities.