



COUNTY OF SANTA CRUZ

OFFICE OF THE AGRICULTURAL COMMISSIONER
MARY LOU NICOLETTI
AGRICULTURAL COMMISSIONER
SEALER OF WEIGHTS AND MEASURES

SANTA CRUZ COUNTY PESTICIDE USE ENFORCEMENT WORK PLAN 2015-2017

Mission Statement

Our Mission is to serve the public's interest by ensuring equity in the marketplace, promoting and protecting agriculture, assuring environmental quality, and protecting the health, safety and welfare of Santa Cruz County's citizens.

Mary Lou Nicoletti
Agricultural Commissioner

COUNTY RESOURCES:

PERSONNEL:

2012

- 3.5 Agricultural /Weights & Measures Inspectors (3 experienced licensed inspectors, and a fourth that is brought in part of the year)
- 1 half time Deputy Agricultural Commissioner – (Deputy was on FMLA part of the time and retired later in the year).
- 1 full time Agricultural Commissioner

2013

- 2.5 Agricultural/Weights and Measures Inspector (One inspector was on FMLA part of the year and later resigned and a new inspector was hired later in the year).
- 1 full time Deputy Agricultural Commissioner
- 1 full time Agricultural Commissioner

2014

- 2.75 Agricultural/Weights and Measures Inspectors (One inspector resigned and a new inspector was hired later in the year).
- 1 full time Deputy Agricultural Commissioner
- 1 full time Agricultural Commissioner

2015 - 2017

- 3 Agricultural/Weights & Measures Inspectors
- 1 full time Deputy Agricultural Commissioner
- 1 full time Agricultural Commissioner

SUPPORT STAFF:

Data Entry: One full-time and one temporary full-time employee

Office Support: One full-time clerical provides assistance as necessary

At the end of October 2012, the current PUE Deputy retired and a new Deputy was appointed at the end of November of the same year.

In 2013 one PUE inspector was on FMLA most of the year and later resigned leaving two full time PUE inspectors and a full time PUE Deputy. Later in November a new inspector was hired.

In 2014 two PUE inspectors resigned their positions. One inspector left in April and the other inspector left at the end of October. Two new inspectors were hired. One inspector was hired in July and another in December. The inspector hired in July had one of the PUE licenses and it is expected that he will obtain his second PUE license by spring of 2015. The other inspector does not have any licenses but it is expected that he will have at least one PUE license by the summer of 2015.

RESTRICTED MATERIALS PERMITTING

1) Permit Issuance:

Program Statistics

Fiscal Year	2011-2012	2012-2013	2013-2014
Restricted Materials Permits			
Agricultural	456	372	327
Non-agricultural	10	13	10
Operator Identification Numbers	102	187	175

- Restricted Materials Permits and Operator Identification Numbers are issued by trained and licensed staff.
- Restricted Materials Permits are issued for periods of one to three years to property operators.
- The CalAgPermits program is used to issue all Restricted Materials Permits and Operator Identification Numbers.
- All permitted sites are evaluated prior to the issuance of the permit utilizing local knowledge of the sites and using aerial maps for reference. Each site is identified down to the field level using the mapping program built into CalAgPermits. Sensitive sites such as residential areas are identified on site maps. The use of ArcGIS to map agricultural fields and to track other information has been discontinued.
- Inspectors ensure that permit applicants are qualified, usually through Private Applicator Certification, and applicants are aware of the hazards and requirements for the material they propose to use.
- Before issuing a permit, the inspector reviews the applicants file for compliance history. Any recent violations may be discussed with the applicant to ensure compliance in the future. CalAgPermits is also checked by the inspector to ensure compliance with submittal of pesticide use reports.
- Permits are issued individually and require the scheduling of an appointment with an inspector of one to two hours. Inspectors discuss requirements of compliance with laws and regulations and help to answer any question the permitte may have. Handouts are given to the applicant with further information regarding compliance with laws and regulations. Handouts of County specific conditions for the use of specific restricted materials are given to the grower and discussed.
- Notices of intent for use of restricted materials are evaluated by a licensed inspector.
- Continuing education workshops on laws and regulations are provided to growers when workloads and staffing levels allow it. The office participates in providing regulatory updates to growers and industry at educational events organized by grower groups or industry.

- Growers planning on using field fumigants that underwent a phase two label change are required to submit a fumigation work plan for evaluation before a notice of intent can be submitted. The fumigation work plan is evaluated by an inspector for compliance with County conditions specific to the material to be used. The fumigation work plan must include a detailed map of the area to be treated including surrounding sensitive areas, a breakdown of the blocks that will be fumigated, the name of the material to be used, application rates, approximate dates of fumigation, buffer zone size for the proposed blocks, application method, brand of tarp to be used and proper determination of buffer zone credits when applicable. Evaluated plans are filed for future reference. Unclear or incomplete plans are returned for correction and re-evaluated by the inspector once the additional information has been provided.

PLANNED IMPROVEMENTS:

- Annually review handouts issued to growers so that they have the most up to date information regarding general information and changes in laws, regulations and conditions.
- Aim at providing at least one continuing education session per year to growers specific to laws and regulations.
- Have staff continue to become familiar with CalAgPermits to use the program to its potential.

GOALS AND PROJECTED DELIVERABLES:

- Evaluate Fumigation Work Plan requirements for the use of phase two field fumigants on a yearly basis to minimize any unnecessary complexities in the requirements but to allow for clear and essential information necessary to properly evaluate the site to be treated.
- Work with staff to ensure consistency in the evaluation process of Fumigation Work Plans and in the interpretation of restricted materials conditions.
- Work with staff to ensure consistency in the manner CalAgPermits is used to issue permits.
- Continue to ask growers during permit issuance to evaluate their need for the use of restricted materials.
- Have inspectors attend regulatory training sessions presented by DPR.

MEASURES OF SUCCESS:

- Fumigation Work Plans submitted for evaluation will be clearer and with less errors or missing information. Evaluation will be less time consuming for inspectors.
- Reduced complaints received from growers and PCAs, higher level of confidence and increased efficiency of the work performed by the inspector.
- Reduce confusion and an increase in the clarity of the work.
- A decrease in the number of permits issued.
- Inspectors acquire new knowledge and are up to date on new requirements.

2) Site Evaluation:

Program Statistics

Fiscal Year	2011-2012	2012-2013	2013-2014
Notices of Intent	634	708	890
Pre-application inspections	28	36	52

- Notices of Intent are received by fax, in person, via mail and in the case of field fumigants via e-mail. Additional flexibility in the manner in which notices of intent can be submitted has been allowed in the last two years.
- All Notices of Intent are reviewed by a licensed inspector for accuracy, compliance with the permit, pesticide label requirements and environmental hazards. Denials are documented and tracked.
- Notices of intent are required to be submitted for evaluation at least 24 hours before the application is intended to take place. Notices of Intent for soil fumigants that underwent a phase two label change are required to be submitted for evaluation at least 48 hours before the job is intended to take place. If a fumigant will be used within one-quarter mile of any Pajaro Valley Unified School, then the notice of intent must be submitted at least five days before the application so that the school district can be notified by the Agricultural Commissioner.
- In the last two years emphasis has been placed on the evaluation of fumigation work plans for compliance with laws, regulations, conditions and identification of sensitive areas. This is considered a priority activity. This has resulted in a reduction in time available for inspectors to perform pre-applications inspections; however, essential site information captured on the fumigation work plan allows inspectors to prioritize available time for pre-application inspections of specific sites to be fumigated.
- Pre-application inspections are prioritized based on distances to sensitive areas, surrounding environment, application method, complaint history and pesticide hazard. Most pre-application inspections are performed on sites where a fumigation has been proposed.
- For other soil fumigants that have not received a phase one or phase two label change the required notice of intent must be submitted with an accurate map of the area to be treated and including distances to sensitive sites in close proximity to the site.

PLANNED IMPROVEMENTS:

- Educate growers on the electronic options available for submitting notices of intent.
- Work with staff to ensure consistency in prioritizing pre-application inspections.
- Ensure that non-agricultural permit holders have a use inspection once per year.

GOALS AND PROJECTED DELIVERABLES:

- Continue to maintain a high level of quality of fumigation work plan evaluations.
- Work with the local school district so that there is more awareness of the responsibilities of the Agricultural Commissioner's office and requirements for use of restricted materials near schools.
- Work with staff to adapt to any new changes in laws, regulations and conditions required to be followed when evaluating sites.

MEASURES OF SUCCESS:

- Increases awareness of sensitive areas near the site, reduces potential future incidents, increases the grower's awareness and compliance with laws and regulations.
- Understanding of the work of the Agricultural Commissioner's office, increased confidence in the protections in place for the use of restricted materials near schools and reduced complaints.
- Staff understands the need for the additional requirements and it makes transition to the new changes easier.

COMPLIANCE MONITORING

1) Inspections:

Program Statistics

Fiscal Year	2011-2012	2012-2013	2013-2014
Inspections			
Applications	42	38	27
Mix/Load	17	7	4
Pre-application inspections	28	36	52
Records	3	1	20
Structural	4	1	1
Field worker	2	22	24

- Two inspectors are currently licensed. One inspector is expected to have at least one PUE license by the summer of 2015. Two inspectors are new and training will continue for these inspectors for the next 18 months.
- Newer inspectors train with experienced staff and the PUE Deputy to gain experience and an understanding of the work.
- Inspectors confer with each other and the PUE Deputy to maintain consistency in upholding laws, regulations and conditions.
- Inspectors conduct inspections on all the various different crops grown in the County.
- Inspectors have assigned field days to perform field monitoring activities. This provides for consistent field coverage and enforcement presence. Inspectors also conduct field activities on days when they are not assigned.
- Inspections are tracked so that inspectors are aware of the level of compliance found in the field and to focus efforts on operators who have a history of non-compliances.
- Inspectors perform surveillance activities during the growing season in order to ensure random unannounced inspections of pesticide applications, mix/load applications, field fumigation inspections and field worker inspections.
- Prior to heading out to the field to perform surveillance activities the inspector checks for any approved Notices of Intent to determine where applications of restricted materials might take place.
- Priority to perform inspections is given to applications near sensitive sites, applications of restricted or high toxicity pesticides and applications performed by operators who have a history of non-compliance.
- Records inspections are typically performed during the winter months and by appointment. Priority is given to operators who have employees and operators who have not had an inspection in two years.
- The PUE Deputy and/or Inspectors attend the quarterly Coast Area Pesticide Enforcement Group meetings to share ideas and maintain consistency among Counties on enforcement of pesticide use laws and regulations.
- Inspectors, the PUE Deputy and the Agricultural Commissioner work closely with our assigned DPR Enforcement Branch Liaison to achieve program goals.

PLANNED IMPROVEMENTS:

- Review field procedures and program requirements with newer inspectors periodically to ensure consistency in achieving program goals.
- Conduct follow-up inspections where non-compliances have been found.
- Conduct more structural inspection work.

GOALS AND PROJECTED DELIVERABLES:

- Focus inspection efforts on operators that have limited inspection history.
- Continue to focus inspection efforts on operators who have a history of non-compliances.
- Educate growers on commonly found non-compliances.

MEASURES OF SUCCESS:

- Assessing the level of compliance provides an opportunity to evaluate and educate growers to prevent potential non-compliances in the future.
- Reduction in complaints, compliance with pesticide use laws and regulations.
- Increasing the grower's awareness results in a trend of compliance.

2) Investigations:

Program Statistics

Fiscal Year	2011-2012	2012-2013	2013-2014
Investigations			
Human Effects - Agricultural	12	11	7
Human Effects - Antimicrobial	3	3	9
Humana Effects - Structural	0	1	3
Human Effects - Other	2	0	1
Environmental Effects	1	0	0
Property Loss Damage	0	0	0
Other	4	1	0
Complaints	25	29	29

- Reports of possible pesticide illness are typically received from the Worker Health and Safety Branch and local health care facilities. In the last two years DPR has implemented the use of the Secure Access Website (SAW) through which pesticide illness reports are retrieved by an assigned person at the County office.
- Currently only two inspectors are licensed to conduct investigations. Newer inspectors will work closely with an experienced inspector or PUE Deputy for guidance on conducting any investigation.
- Inspectors and the PUE Deputy confer with our assigned DPR Enforcement Branch Liaison when investigating complex cases.
- Inspectors follow the investigation procedures outlined in the Department of Pesticide Regulation's compendium volume #5 Investigation Procedures.
- Complaints and inquiries from the public are received frequently. These are usually received by phone and are documented in a binder. The reports are less formal than those created for an illness investigation and the amount of time spent on the investigation depends on the situation and the facts involved.
- Written investigate reports assigned by WHS are reviewed by the PUE Deputy. These are submitted to WHS, usually within required timelines, via SAW.
- Complaints from agricultural growers regarding property loss or damage such as from drift are investigated promptly and documented.

PLANNED IMPROVEMENTS:

- Carefully monitor required report timelines for submission to WHS.
- Provide frequent guidance to newer inspectors performing investigations to ensure investigative requirements are being met.
- Alert WHS of any possible illness reports received by the office from health care facilities in a timely manner.

GOALS AND PROJECTED DELIVERABLES:

- Maintain the quality and effectiveness of investigations.
- Work with staff on time management priorities related to meeting investigation requirements and other program requirements.
- For agricultural related illnesses track and identify common scenarios and violations.

MEASURES OF SUCCESS:

- Investigations are comprehensive and clearly identify if any violations were found.
- Inspectors are effective at completing assigned work and at prioritizing the order of importance in which the work should be completed.
- Sharing of information with growers on trends found during investigations can result in reduced illnesses.

ENFORCEMENT RESPONSE

Program Statistics

Fiscal Year	2011-2012	2012-2013	2013-2014
Non-compliances	53	37	51
Warning Letters/Violation Notices	26	22	29
Agricultural Civil Penalties	9	3	4
Decision Reports	8	2	15
Referrals to DPR	0	1	0

- Inspections are performed by inspectors who are trained and licensed, or inspectors who are closely supervised.
- Inspectors communicate with each other in order to maintain consistency enforcing laws and regulations. PUE meetings are held periodically to discuss relevant issues. The PUE Deputy is available to answer questions, interpret regulations and provide guidance to inspectors.
- Inspectors document all violations.
- All inspections with violations are evaluated by the inspector for possible enforcement action using the Enforcement Response Regulations. Inspectors determine the class of the violation and review the operator’s history to determine if there have been previous violations. Inspectors determine the appropriate compliance or enforcement action according to the Enforcement Response Regulation and document their findings on a Decision Report which is then attached to the inspection. All inspections with a violation have a written record that documents the class, the history and the action taken.
- Decision reports are reviewed by the PUE Deputy and approved or rejected.
- The inspector and/or PUE Deputy may also hold a compliance interview with the operator if it will help clarify or correct the situation.
- If the decision is to recommend an enforcement action, a Notice of Proposed Action is prepared. NOPAs are generated in a standard format using a template, which ensures efficiency and consistency. The format suggested by DPR is followed. NOPAs are produced by the inspector and put together with the evidence in a case file.
- Once a NOPA case file has been put together by the inspector it is reviewed by the PUE Deputy and then reviewed by the Agricultural Commissioner.
- An enforcement response is chosen that will most likely result in sustained compliance, with the most efficient use of resources. Special emphasis is placed on repeat violators. All appropriate enforcement options are considered before taking action, including consultation with the District Attorney when appropriate and providing a timely opportunity for participation in the investigation and enforcement action. When appropriate, cases may be referred to DPR for enforcement action.

PLANNED IMPROVEMENTS:

- Monitor the necessity to have PUE Meetings more frequently if necessary to address or clarify recurring issues.
- Ensure that any proposed NOPAs are sent in a timely manner to the respondent in order to emphasize awareness and compliance.
- Periodically review with inspectors the Enforcement Response Regulations and elements to consider when determining violation class designations.

GOALS AND PROJECTED DELIVERABLES:

- Track violation types and make this information available to staff.
- Track violations types and share observed trends with growers.
- Periodically review the implementation of the enforcement program to ensure violations are being assigned to the proper class and fine levels.

MEASURES OF SUCCESS:

- Results in consistency when assigning proper class categories to violations.
- Increases awareness and compliance.
- Ensures fairness and consistency in the implementation of the enforcement program.

PRIORITIES AND OTHER PESTICIDE REGULATORY ACTIVITIES

Soil Fumigants:

- Emphasis is placed on reviewing permit sites that will be fumigated with a soil fumigant that underwent a phase two pesticide label change. Growers are required to submit a fumigation work plan for evaluation prior to submitting a notice of intent. Evaluation of fumigation work plans is a lengthy process that requires constant communication between the inspector, the grower and pest control advisers. Although the evaluation of fumigation work plans is a time consuming process, this process has become essential in identifying sensitive areas and helping to identify areas where additional mitigation measures may be needed.
- DPR recommended conditions regarding soil fumigants are carefully evaluated and in many cases incorporated as part of County conditions after consideration of use methods in the County.
- Growers and Industry are informed of new changes in conditions and requirements for soil fumigants at annual grower or industry meetings.
- The Agricultural Commissioner and PUE Deputy actively participate in meetings and conference calls with DPR and Industry to discuss soil fumigant mitigation proposals.
- The PUE Deputy participates in the annual Central Coast Pesticide Use Enforcement Roundtable meetings where information and ideas are shared between Counties on conditional requirements for use of soil fumigants by agricultural growers.
- PUE inspectors and the PUE Deputy work with growers and industry to explain and clarify regulations and conditions to achieve compliance.

Outreach to Public Schools:

- The Agricultural Commissioner's office works closely with the local public school district to address concerns of pesticide use near schools.
- Any complaints received by schools officials or members of the public regarding use of pesticides near schools are quickly investigated.
- Agricultural growers near schools are encouraged to consider timing of pesticide applications during those times when school is not in session. Communication between growers and school officials is encouraged.
- In the interest of fostering communication between school officials and growers, the Agricultural Commissioner's office has provided maps of farming operations near schools and contacts for those operations to public school officials.
- The local school district is notified five days in advance of any soil fumigations proposed within ¼ mile of a public school. The information includes a complete copy of the notice of intent, a map of the area to be treated and approximate distance of the treatment site to the school.
- In October of 2014, the Agricultural Commissioner met with the Pajaro Valley Unified School District's Safety Officer and with representatives of the Teacher's Union to address concerns regarding the use of pesticides near schools and the use of soil fumigants.

CalAgPermits:

- Inspectors continue to focus on getting growers to sign up for a user account to CalAgPermits so that pesticide use reporting can be done electronically.
- Inspectors continue to become familiar with running queries and learning the capabilities of the program.
- Entering hard copies of pesticide use records in a timely manner into CalAgPermits will continue to be a priority to quickly address any errors in a timely manner.
- Reviewing submitted electronic use records will continue to be an important activity to quickly follow-up on any errors found.
- Staff will continue to encourage agricultural pest control business, structural businesses and pest control advisers to submit pesticide use records electronically.