Sutter County Pesticide Enforcement Workplan 2014 -2016

Sutter County Department of Agriculture
Pesticide Use Enforcement
Program Planning Guidance and Evaluation
Calendar Year 2014-2016

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PRIORITIES AND OTHER REGULATORY ACTIVITIES

FY 12/13Pesticide Regulatory Activities Monthly Report (PRAMR)

Agricultural Pest Control Businesses Registered	101
Agricultural Pest Control Advisors Registered	104
Agricultural Pest Control Pilots Registered	70
Agricultural Pest Control Dealers in County	8
Structural Pest Control Operator Registration	66
Farm Labor Contractors Registered	27
Operator Identification Numbers Issued	55
Private Applicators Certified-yearly renewal	244
Restricted Materials Permits Issued	1125
Restricted Material Sites	5658
Notices of Intents Reviewed	5334
Pesticide Use Report Data Records	38,164
Projected Investigation Inspections	15
Projected Compliance Actions	50
Projected Enforcement Actions	30
Projected Pounds of Pesticides Applied (2011DPR Data)	3,126,384
Estimated Work Hours	12093

I. Restricted Materials Permitting

A. Current Status

Permit Evaluation-Process Evaluation and Improvement Planning

Permit Evaluation:

Permits for restricted materials are issued to the operator of the property to be treated. They are signed by the permittee or documented representative (Title 3 California Code of Regulations (3CCR), Section 6420). They are issued for a period of one year or less. Perennial crops may be issued for a maximum of three years. Restricted Materials Permits (RMP) are recorded on an approved form (PR ENF-125). Permits for Restricted Materials are site and time specific based on the filing of a Notice of Intent (NOI) as per 3CCR, Section 6434. NOI's are recorded in an electronic database and include required information such as date of intended application, method of application including dilution, volume per acre, dosage and name of pest control business. Sutter County has four enforcement districts and NOI's are sorted by district and routed to the appropriate enforcement staff for evaluation. NOI's are submitted at least 24 hours prior to start of the application. NOI's with less than 24 hour prior notice are approved when certified staff determines, due to the nature of commodity or pest problem, effective control cannot be obtained or it is determined 24 hours are not necessary to adequately evaluate the intended application. This determination is noted on the RMP or NOI log sheet.

Pest Control Advisors and growers indicate they have considered feasible, reasonable, and effective mitigation measures when using pesticides that require permits. Permit applications are documented on an approved form with all applicable required information (3CCR, Section 6428) and are completed by certified staff. Non Ag permit applications are documented on an approved form with all applicable required information (3CCR, Section 6430) completed by certified staff.

Permits are evaluated at the time of issuance by certified staff to determine if a substantial adverse environmental impact may result from the use of a restricted material listed on the permit. The permit is evaluated again for possible adverse impacts at the time a Notice of Intent is received for the use of a restricted material. Sutter County has developed and an extensive geo-database of permitted sites using ArcView Geographic Information System (GIS) to help evaluate environmental concerns for all sites identified on permits. Sites that are located near sensitive areas such as schools, daycare centers, wildlife areas, waterways and any other sensitive areas are mapped and feasible alternatives to restricted pesticides are considered and implemented as necessary. A permit or NOI may be denied or conditioned recognizing and utilizing appropriate mitigation measures near sensitive areas, such as Propanil near prunes, or when pesticides of special concern such as Regiment and Clincher are used. Various mitigation measures may be considered based on knowledge of local conditions, pest management guidelines, pesticide safety information series, locally developed permit conditions, applicable laws and regulations (including 3 CCR, Sections 6443 and 6450 through 649\89), and a county check off list identifying various mitigations measures and restrictions within the county.

RESOURCES

County Resources:

- Sutter County devoted 5.8 positions (12,093 man-hours) in the 12/13 fiscal year to the Pesticide Use Enforcement (PUE) Program.
- Asset Allocations – at this time will be equal to the 12/13FY.
- Workload expectations - will be equal to our 12/13 work plan.
- Workload expectations include: Issuance of 1289 Restricted Materials permits for Ag. Use and 47 Restricted Materials permits for Non-Ag. Use.
- GIS mapping – permit site accuracy review for all site changes.

Permit Guidance:

- All biologists issuing permits are certified in Pesticide Use Enforcement and Environmental Monitoring.
- Training in permit issuance is performed on several levels. State training is utilized when available. The Deputy Ag. Commissioner continuously trains and updates biologists on permit issuance as outlined in the Pesticide Use Enforcement Standards Compendium Volume 3, Restricted Materials and Permit Management. The Department of Pesticide Regulation (DPR) Enforcement Branch Liaison (EBL) reviews permits during the evaluation process for inaccuracies and omissions. The Deputy Ag. Commissioner addresses these inaccuracies during training sessions, staff meetings and individually with issuing biologists. The Deputy Ag. Commissioner trains biologists using established procedures, forms and documents prepared by both the state and county. The biologists use a check list developed by the county to assure all documents are provided and issues addressed with the permittee. All documents related to the issuance of permits are reviewed and updated yearly as needed.

B. Planned Improvements

- No corrective actions were identified by DPR for FY's 10/11-12/13 Effectiveness Evaluation.

C. Goals and Projected Deliverables

- The Goal of Sutter County is to improve the business processes associated with the evaluation and issuance of restricted material permits and review of that process for areas of refinement and/or improvement as identified in the permit evaluation process above.
- Ensure that DPR's RMP guidelines are followed during permit issuance to ensure California Environmental Quality Act (CEQA) equivalency.
- Evaluate permits for adverse environmental impacts.
- Approve, deny or condition permits as necessary.
- Secondary review of RMP's for completeness and accuracy by the PUE Secretary and Deputy on an ongoing basis.
- Evaluate permitting process yearly for deficiencies.
- Review permits, non-compliances, Pesticide Regulatory Activities Report (Report 5) data, discuss with certificated staff and DPR EBL.
- Address identified problem areas with training, timelines and follow-up reviews. Develop a plan of action to address any identified deficiencies or areas of concern.

D. Measure of Success

- Each Restricted Materials Permit is evaluated for public safety and environmental impacts.
- Permit conditions adequately mitigate environmental concerns.
- During the permitting process assuring that permit holders have the information and tools to safely and effectively use the pesticides within the regulatory requirements.

II. Compliance Monitoring

A. Current Status

Site Monitoring Plan:

Certified staff will monitor permits as required in 3CCR, Section 6436. A minimum of five percent of the sites identified in NOI's for proposed applications will have a pre-application site inspection conducted. Monitoring will include evaluation of the basis for the intended application including the written recommendation, if any, toxicity of material and environmental concerns (endangered species habitat, buffer zone areas, ground water protection areas, problem areas identified from previous years, Section 18 uses, etc.). All restricted materials applications by Non-Ag permit holders are inspected once a year. Permit holders with recorded non-compliances will be monitored more frequently. A non-compliance database is compiled and copies of grower non-compliances

are placed in permit files to address non-compliance history at the time of permit issuance and possible increased monitoring needs.

Sutter County has a large Agricultural/Urban interface due to cropping patterns and ongoing residential development. Offsite pesticide movement has been an ongoing issue of prime concern in Sutter County. We are striving to minimize these occurrences through education and outreach to pesticide applicators during our biannual outreach meetings. Additionally enforcement action is taken in all instances where drift has been substantiated.

Sutter County's inspection program evaluation reveals that 15% of our inspections are scheduled. These primarily include grower headquarter safety inspections and commodity fumigations. Targeted inspections comprise 25% of our inspection workload. These inspections activities are prioritized by chemical hazard, environmental concerns and applicator compliance history. The remaining 60% of our inspection activities are more random and focus on general applications during periods of increased pesticide usage, for example during dormant applications, bloom spray periods and rice pesticide applications.

Analysis of our inspection activities for the 06/07 through the 12/13 fiscal years shows that the majority of non-compliances for Pesticide Use Monitoring Inspections were for violation of personal protective equipment required by the pesticide label and by regulation. Inspections of property operators revealed a higher non-compliance rate than pest control businesses. Similarly property operator headquarters safety inspections had a higher non-compliance rate than pest control businesses.

In review our current compliance monitoring program strengths are:

1. An effective targeted inspection plan utilizing the following components:

   a) Fully utilizing CalAgPermits including NOI tracking.
   b) Automated Inspection and Reporting System (AIRS).
   c) An up to date non-compliance tracking database.

2. Enforcement districts are assigned to biologists which allows them to become very knowledgeable regarding pesticide usage and cropping patterns in those areas.

3. Increased compliance monitoring activities at sites near areas identified to be environmentally sensitive such as schools, daycare centers and wildlife areas.

4. A scheduled inspection process that is effectively identifying non-compliances during property operator worker safety training and record keeping inspections.

B. Planned Improvements

1. Uniform enforcement implementation throughout the county enforcement districts.

2. Identification of growers with employees that handle pesticides during the permitting process.

3. Compliance with 100% pesticide use reporting for growers.

C. Goals and Projected Deliverables

Sutter County PUE Divisions goal is to increase compliance with pesticide laws and regulations within Sutter County. Special focus will be placed on areas of non-compliance identified during property operator headquarters safety inspections.

Deliverables

1. Increase the effectiveness of property operator headquarter/worker safety inspections by using the following parameters: 1/4th of the headquarters inspections will be generated from applications inspection follow ups when worker safety violations are identified. Personal protective equipment violations and scenarios indicating inadequate training of employees will trigger a follow up headquarters inspection within 30 days of the original application inspection date. When possible the Enforcement Branch Liaison will be involved in follow up headquarters inspections generated due to non-compliances found during DPR oversight inspections.

2. Management will perform two (2) "oversight inspections" for each enforcement biologist each calendar year. These will be in addition to any oversight inspections performed by the Enforcement Branch Liaison.

3. Improvement in identifying growers with employees that handle pesticides through:
   a. Thorough interview protocols.
   b. Analysis of permit parameters that indicate the probability of employees that handle pesticides.

4. Full use reporting audit of all pesticide purchases in conjunction during headquarters/employee safety inspections.

   Based on our inspection program evaluation the following inspection goals were determined:

PRE-APPLICATION	5%
MIX & LOAD	
• PROPERTY OPERATOR	80
• BUSINESS	40
HEADQUARTERS EMPLOYEE SAFETY	
• PROPERTY OPERATOR	50
• BUSINESS	6
• STRUCTURAL	3
APPLICATION	
• GROWERS	120
• BUSINESS	40
STRUCTURAL	
• BRANCH I	3
• BRANCH 2	20

COMMODITY	10
FIELD FUMIGATION	8
FIELD WORKER SAFETY	30
BUSINESS RECORDS	
• PEST CONTROL	4
• DEALER	2
• ADVISER	2
WATER HOLD	150

Completion of Use Monitoring Inspection Form #104/#108 For ALL Non-Agricultural Restricted Material Applications Investigations: Human & Environmental Effects, Property Loss Etc. 100%.

The inspection target numbers above have minor changes for the 2014-2016 calendar years. The exception being rice water hold inspections where the number will decrease due to decreased use of chemicals under the Rice Pesticide Monitoring Program. These numbers will be re-evaluated each calendar year and may be modified upon agreement with the Enforcement Branch Liaison.

Targeted surveillance activities will be carried out during the Rice Pesticide Program as in past years. We will also perform targeted surveillance when needed as determined by environmental concerns and applicator compliance history. Targeted inspections will be used to most efficiently focus manpower on areas of the enforcement program to improve compliance within the County.

The PUE Deputy will completely review all inspection reports and activities of the enforcement personnel. All non-compliances will be tracked and followed up on as required. Management will accompany enforcement staff during inspection activities throughout the year and perform "oversight" inspections to assess activities in the field and make changes as warranted to ensure an effective program.

Additionally Sutter County offers 4 outreach meetings to growers each year covering various enforcement topics. Continuing education hours are offered and topics of concern regarding enforcement issues within the county are discussed. We also provide for 3 training sessions per year for growers employee's covering fieldworker and pesticide handler safety. These training sessions are provided in English, Spanish and Punjab.

D. Measuring Success

The goal of a comprehensive inspection plan is to increase compliance. A decrease in non-compliances found can be an effective indicator of success if all other things are equal. Striving to increase the effectiveness of our compliance activities by further refining focused and targeted inspection schemes may in the short term, increase the number of non-compliances identified. A decrease in the number of non-compliances during the scope of the current Work Plan (2014 to 2016) may be a good measure of the effectiveness of our implemented program changes.
Analysis of non-compliance's between fiscal years 06/07 and 12/13 has shown a clear downward trend. For all inspection activities the non-compliance rate dropped from 19% to 8%.

III. Enforcement Response

A. Current Status

Current Enforcement Response Practices

Inspections and investigations (pesticide illness investigations & complaints) are reviewed by the Deputy Ag. Commissioner.

The biologist meets with the PUE Deputy to discuss the inspection or investigation and compliance history sheet for the company or grower. The non-compliance is reviewed by the inspector and the deputy with input from the other inspectors. Sutter County follows the DPR Enforcement guidelines in determining actions to be taken.

The decision as to the appropriate action is made by the deputy with input from any inspector that has information that is pertinent to that action.

The investigation or inspection is reviewed to ensure that adequate evidence is present to prove any cited violations. If the evidence is inadequate to prove the violation, the case is returned to the inspector for further investigation or if inadequate evidence is available, the case is returned to the inspector to write a justification as to why we are not taking any type of enforcement response relating to the non-compliance. All non-compliances are addressed and actions taken are documented.

Compliance and enforcement actions are written by the inspectors. The action is then reviewed by the PUE Deputy and reviewed and signed by the Agricultural Commissioner.

If a civil penalty action is taken, the fine guidelines are followed within the appropriate fine range. In the case the fine is set lower than the fine guidelines a justification is written into the action. In most cases Notices of Proposed Actions are delivered to the respondent within 90 days of the inspection or completion of investigation. The PUE Division secretary is responsible for maintaining a log of all compliance and enforcement actions: status, certified mailing, etc.

Investigation Response and Reporting Improvement

The Sutter County Pesticide Division received 13 illness episode notifications during the 2010 to 2013 workplan. The investigations were completed and submitted to WHS within 30 days.

The current investigation response process strengths are:

1. Timely initiation and completion of investigations.
2. Episode notification tracking.

Areas identified as needing improvement are:

1. Areas needing improvement will be determined by the DPR Enforcement Branch Liaison and Deputy Agricultural Commissioner as they are identified.

Goal or Objective

1. Timely initiation and completion of all priority and non-priority investigations.

Deliverables

2. Develop an Investigative response plan for each episode notification.

3. Tracking system for assuring episode notifications and investigations are completed in a timely manner.

4. Comprehensive review of all reports by the PUE Deputy prior to submission to DPR.

5. Review reversed decisions by appeals.

6. Maintain a log of all investigations and make it available to the Department of Pesticide Regulation Enforcement Branch Liaison.

*__All Investigations will be handled according to the procedures outlined in the Pesticide Use Enforcement Standards Compendium, Volume V, Investigation Procedures.__

Measure Success

Success will be measured according to the reduction in number of returned and/or incomplete investigations. Timeliness of investigation completion and submission will also be used as a factor in measuring the success of this program.

Program Strengths

Fully documented program and practices that result in a timely response to non-compliances.

Codified enforcement action guidelines ensure even handed enforcement actions for similar violations throughout the county.

Involvement of PUE biologists when deciding actions helps to address all mitigating factors prior to taking an action and also results in more even and consistent enforcement.

Intensive review of the evidence by the deputy and biologists is conducted. The elements of each section violated are “proven” while developing enforcement actions. Elements identified that can not be proven are reviewed and lead to more complete investigations in the future.

Documentation and review of all non-compliances is essential and lends to the transparency of our program. This helps make the program understandable to the public and assists during oversight activities conducted by DPR.

B. Planned Improvements

Areas needing improvement will be determined by the DPR Enforcement Branch Liaison and Deputy Agricultural Commissioner as they are identified.

C. Goal and Projected Deliverables

The goal of the enforcement response plan summarized above is to provide a prompt and fair response to identified non-compliances, resulting in increased compliance by the regulated community. The actions taken must be consistent and fair in order to maintain the respect of the regulated industry as well as maintaining the integrity of the Agricultural Commissioners Office.

Deliverables

1. Enforcement Actions will be taken according to the Enforcement Response Regulations.

2. Consideration of all enforcement options available.

3. Timely initiation of Enforcement Actions. Enforcement Actions will be identified and initiated within 30 days of the violation.

4. Immediate notification and coordination with assigned EBL on all U.S. EPA Region 9 priority cases.

5. Notification of EBL for other sensitive or high level incidents and complaints for guidance on investigation and enforcement response.

D. Measures of Success

The best measure of success of the enforcement response program is the improvement of compliance for those entities that have been subject to enforcement actions. We believe continued firm enforcement response taken as appropriate will improve compliance throughout the county because of the expectation by industry that non-compliances will likely result in an enforcement action.

Priorities and Other Pesticide Regulated Activities

(DPR's list of priorities, some of which are not applicable to Sutter County.)

A. Non-fumigant VOC Regulation Compliance –*NA, San Joaquin Co. only*

B. Soil Fume Phase II – *Currently providing training and assistance with determining buffers to affected growers.*

C. Chloropicrin mitigation measures – *Limited use, address as applicable.*

D. Structural inspection activity 1, 2 &3 – *conduct urban surveillance and inspect when seen, also address Non-Ag surface water regulations dependent upon product used (also addressed in item M.).*

E. Efforts to work collaboratively with the State Regional Water Quality Board and DPR Environmental Monitoring Branch regarding applications of diazinon, chlorpyrifos, and diruon near water bodies. *Working collaboratively with the local water coalitions in response to Regional Water Quality Board requirements. Conduct application inspections of regulated pesticides to ensure compliance with the Dormant Spray Regulations.*

F. Staff Training – *Done on continual basis for those active within the PUE program.*

G. School Pesticide Use Reporting – *no current issues with non-compliances to regulation 3CCR section 6625.*

H. Secured Web Access (SAW) – *Currently utilizing SAW.*

I. Ground Water Regulations – *compliance addressed through handouts and education during the issuance of permits.*

J. Chilean Fruit Air Monitoring - *not applicable in Sutter County.*

K. Regulatory outreach and education – *numerous, addressed within work plan.*

L. Investigative Review – *done as standard course with our respective EBL.*

M. Compliance with Non-Ag Surface Water Regulations. *See item D.*

N. Rodenticide label *requirements –certification is required prior to sale. Second generation bait requirements addressed when applicable.*

O. Focused inspections on employers with employees – *done as a matter of course through NOIs and headquarter inspections.*

P. DPR reporting for report of loss related to bee kills associated with alleged pesticide applications – *done as standard course during our investigation process (See item L.)*

Q. DPR collaboration addressing U.S. EPA activities and requests – *done as standard course.*

R. Other Special Projects as identified by the County Ag Commissioner –

"Kill the Bug Recycle the Jug" Pesticide Container Recycling Program.
The Sutter County Agricultural Commissioner's program offers recycling events and recycling points to facilitate growers recycling of pesticide containers. Last year 4 events were held and 93,500lbs of pesticide containers were recycled.