



**AGRICULTURE, WEIGHTS AND MEASURES**

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**PESTICIDE USE ENFORCEMENT WORK PLAN  
FOR CALENDAR YEARS**

**2016**

**2017**

**2018**

**County of Marin**

**Name:**

\_\_\_\_\_

**Stacy Carlsen**

**Title:       Agricultural Commissioner  
              Director of Weights and Measures**

**Dated:       January 11, 2016**

**Revised:     January 11, 2016**

**Department of Pesticide Regulation**

**Name:**

\_\_\_\_\_

**Title:**

**Dated:**

# **ENFORCEMENT WORK PLAN FOR CALENDAR YEARS 2016, 2017 and 2018**

## **Department Overview**

The Marin County Department of Agriculture/Weights and Measures (Department) consists of 15 employees; 1 commissioner/sealer, 1 deputy, 1 supervising inspector, 8 inspectors, 3 clerical staff (one of them is part time) and 1 seasonal senior agricultural program assistant (glassy-winged sharpshooter inspector). We do not have a division solely devoted to pesticide use enforcement (PUE). In addition to PUE, staff members perform duties in all the various agricultural commissioner/sealer programs which include pest detection, pest eradication, pest management, the Marin/Sonoma Weed Management Area, pest exclusion, high risk pest exclusion, nursery inspections, direct marketing, organic inspections, crop and livestock statistics, weights and measures inspections including point-of-sale, retail motor fuel, weighing device and petroleum. We also oversee the management of a sustainable livestock protection program that provides cost sharing for non-lethal methods of predator control.

Over the course of our last work plan (2013 – 2015), three Inspectors left county employment, two of which were actively involved in the PUE program. The three vacant positions have been filled and the Inspectors' PUE training is ongoing. There has been an overall decrease in PUE hours due to the increase of organic agricultural production as well as commitment of time to other programs.

The use of pesticides in production agriculture in Marin County has been decreasing over the years as more operations become organic. There are currently 40,632 acres in organic agricultural production, of which 40,367 acres are pasture. Most of the fruit and vegetable growers in Marin County are organic. Many do not use pesticides and the plots are small. Ranching mainly consists of dairy, beef, or sheep on ranches consisting of several hundred acres of coastal grassland pastures. A small handful of the ranchers and growers have employee handlers or field workers, the bulk being family members conducting rangeland and pasture management in the coastal grassy rolling hills, or tending family owned wine grape vineyards. The bulk of the population in Marin County lies along the urban Highway 101 corridor, where the bulk of pesticides used in Marin are applied in landscape or structural settings.

## 1. **Restricted Materials Permitting**

### **Current Status**

#### **Pesticide Use Enforcement Resources (approximate)**

##### **Personnel**

The Department adjusts to adequately accommodate existing requirements of the PUE program.

- 1 Commissioner devoting approximately 296 PUE hours yearly.
- 1 Deputy Agricultural Commissioner devoting 256 PUE hours yearly.
- 1 Supervising Agriculture/Weights and Measures Inspector devoting 478 PUE hours yearly.
- 8 Agriculture/Weights and Measures Inspectors devoting 1,870 PUE hours yearly.
- 3 Clerical positions devoting 630 PUE hours yearly.
- Total hours available to pesticide use enforcement – 3,530

#### **Pesticide Use Enforcement Average Annual Work Activities (approximate and anticipated)**

- Issue 13 Annual Restricted Material Permits.
- Issue 35 Operator Identification Numbers.
- 5% of restricted material pre-application site inspections – 2-3 inspections.
- 55 Restricted Material Notice of Intents reviewed.
- 5 agricultural application inspections.
- 1 field worker safety inspection.
- 2 agricultural mix/load inspections.
- 10 branch 1 structural fumigation inspections.
- 4 branch 2 & 3 structural application inspections.
- 25 agricultural records inspections.
- 10-15 illness/complaint investigations.
- 230 pest control business, pest control advisor, farm labor contractor and pilot registration, and structural annual registrations.
- 5-10 private applicator certifications.
- Continuous public outreach education, consisting of recruitment for and coaching of online pesticide use reporting and updates on PUE laws and regulations.
- 15-30 compliance actions.
- 1-3 administrative civil penalties.

It is Marin County Policy to issue all restricted material permits (RMP's) and Operator Identification Numbers (OPID) for a one-year period. All permits expire on December 31<sup>st</sup> each year. Preparation for the upcoming year begins in the fall. Before a RMP or OPID is issued, a complete review is conducted by the issuing Inspector. This is to ensure accuracy in all aspects of the permit, pesticide use, site, commodity, surrounding sites and compliance history. Geographic Information Systems (GIS) based site maps are reviewed with the rancher/grower to ensure the proper parcel(s) are included as well as acreage and proximity to nearby organic sites or other sensitive sites. All permits are issued in person. Amendments are rare, and on a case-

by-case basis may be permitted by fax. Updates are made in the computer and updated files printed out and signed.

RMP's are issued predominantly for: the herbicide 2,4-D and the rodenticides zinc phosphide or aluminum phosphide. 2,4-D is used to control thistles in pasture and rangeland and RMP's are conditioned with the appropriate phenoxy herbicide application requirements, as well as ground and aerial buffer zones to mitigate any drift to non-target sites. Zinc phosphide and aluminum phosphide are used to control burrowing rodents in non-production agricultural areas such as golf courses and cemeteries. Marin Inspectors have a strong presence in the agricultural production areas of Marin due to the robust organic climate of the county and the Department being an organic certifier. Fewer RMP's are being issued each year as ranchers continue to switch to non-restricted herbicides or convert to organic farming practices. As a major component of the RPM, the Department considers the pesticide intended for use and the sensitive nature of the surrounding areas to determine the need for pre-application site inspections and application inspection monitoring. There is not a wide range of restricted materials used in the county, so the main focus is aerial applications and proximity to sensitive and organic sites.

Notices of Intent (NOI's) for restricted material applications are received in person, by phone or by fax. All NOI's are reviewed and compared to the permit for accuracy. This review determines approval or denial. The Department conducts pre-application site inspections on greater than 5% of the sites submitted in NOI's.

There are very few and in some years, no aerial restricted material applications.

### **Planned Improvement**

- In the last two years we have hired three new inspectors. Getting them licensed in pesticide regulation, investigation and environmental monitoring and integrated pest management (IPM) is a high priority.
- Continue documenting and training employees for the eventual succession of the Department's PUE program lead.
- Train additional employees on the use of DPR's Secure Access Website (SAW), which allows for the secure electronic notification of pesticide-related illnesses and submission of PUE investigation reports.
- Continue training all inspectors to become more proficient in the CalAgPermits program, especially map making.
- Utilize Geographic Information System (GIS) to generate buffers around school, organic and endangered species sites.

### **Goals and Projected Deliverables**

Marin County uses the CalAgPermits RMP program. It is a web-based program that allows growers, ranchers, golf courses, cemeteries and government agencies the ability to access their operator id/restricted material permit and pesticide use reports online. The goals and components of this program are:

- Continue internal training of staff members by other staff members to become more proficient with the program, especially with GIS maps. This goal includes timely map updates and continual enhancement of maps to identify sensitive sites and include roads

or landmarks. We have created a base layer used to digitize grower's sites and will be able to identify such things as roads, soil types, assessor's parcels, land use, hydrology, topography, organic growers, vineyards, weed sites, lamb kills by coyotes, etc.

- Enhancement of these features will allow for accurate documentation as it pertains to pesticide use and the ability to take effective mitigation measures. After issuance, each RMP and OPID is reviewed again by the Supervising Inspector for accuracy and completeness.
- Non-agricultural RMP applications are inspected once per year. Marin may have anywhere from zero to one or two non-agricultural RMP's issued.
- Continue to encourage on line pesticide use reporting while offering support and guidance. The Department encourages on line use reporting to every structural and agricultural PCO and Maintenance Gardener registering in Marin County, either in person or by enclosing a letter addressing on line reporting with their registration receipt for those who register by mail. All permittees are encouraged as well. The numbers of those reporting on line is growing. However, the Department time spent managing the program is not necessarily decreasing, as oversight of those reporting on line is necessary. An Inspector continuously tracks submission of use reports, on line and by paper, each use report is reviewed for accuracy, and cross checking occurs to ensure users are not submitting a paper copy as well as on line submission, or switching back and forth month to month. An Inspector views monthly the status of submitted use reports, as the system will not accept the data if more is needed and many times the user is unaware their use reports are sitting in limbo.
- During the RMP issuing process (or headquarters records inspections) staff compares NOI's submitted with pesticide use reports (PUR) submitted.
- RMP's are issued only to qualified property operators or documented representatives.
- Dates of major bike races and routes in Marin County are closely monitored. Pesticide applications are not allowed on or near those routes on race day or the week previous to the race date (bicyclists training on routes prior to race day).
- The Department has the unique advantage by being an organic certifying agency, to know who is considering becoming organic, who is transitioning, and who currently is organic and where the sites are located. These sensitive sites are tracked and being added to CalAgPermit maps.
- The Department policy requires prior appointments for RMP issuance. This process allows Inspectors more time to review and edit before the permittee arrives.
- A computer is available in the library, where permits are issued, thereby allowing the permittee to view the screen and see their permit and map, bringing them closer in to the process.
- Outreach to ranchers continues, mostly one on one, to educate them on non-restricted alternative herbicides that could replace their reliance on the older, traditional use of the restricted material 2,4-D for spot spray thistle control in pastures. The alternatives are more expensive up front, but far less pesticide is applied per acre, so in the end it monetarily works out. The trend continues and a couple more ranchers each year are making the change. Educating by discussing the importance of mowing, hand pulling, and grazing techniques as well as timing of pesticide applications to reduce overall pesticide use. Working closely with Resource Conservation Districts, Farm Advisors, the Weed Management Area and other weed experts on getting information and resources to property operators regarding weed control in an effort to lessen the amount of pesticides applied.

- Keep obtaining rancher/grower email addresses for future mailings of educational material such as weed ID and control, continuing education, crop statistics, etc.
- Surveillance of dead and dying weeds on ranch lands, identifying the rancher and cross checking with permits, submission of NOI's and use reports.

## **Measures of Success**

- Use GIS to generate buffers around school, organic and endangered species sites.
- Continue increasing the number of businesses filing their pesticide use reports online. Currently 66% of businesses are reporting their pesticide use online.
- Fewer RMP's issued.
- Observe increased licensure of the three new employees in the areas of: pesticide regulation, investigation and environmental monitoring and IPM.

The Department has met or exceeded the California Department of Pesticide Regulation's (DPR's) evaluation criteria for restricted material permit evaluation over the past nineteen years.

## **2. Compliance Monitoring**

### **Current Status**

Marin County conducts about 40 – 45 pesticide use related inspections per year. In addition, approximately 10 – 15 complaints and illness investigations are conducted each year. These inspections and investigations are conducted by properly licensed (or supervised) and trained Agricultural Inspectors. The original written inspection form is filed in the business folder, and another copy is kept in the PUE work plan notebook, where copies of all inspections are logged, tracked, counted and filed. Inspections with non-compliances are dually noted as requiring follow ups and tracked. The Inspector is responsible for tracking the compliance history of the business and individuals inspected and for conducting follow up inspections. Each Inspector has a digital camera to document their observations and a cell phone to call the office for guidance and assistance, if necessary. The Supervising Inspector reviews all inspections and investigations. If non-compliances are noted, the Supervising Inspector and Inspector review the Enforcement Response Regulations (ERR's) to determine the appropriate action. Follow up inspections and enforcement response is to occur in a timely manner, usually within 30 – 60 days. It is the Department policy to complete complaint and illness investigations within 60 days.

Application, mix/load and field worker inspections are conducted unannounced. Appointments are made when conducting records inspections. Of the investigations conducted, approximately 1- 4 per year are antimicrobial illness cases. The rest are complaints originating from the public about Agricultural/Structural Pest Control Operators in residential settings - the most common being odor or lack of prior notification to tenants before applications. All investigations are logged and tracked in an electronic database.

Over the course of our last work plan, our Department purchased smart phones and tablets for each inspector.

## **Planned Improvement**

- Increased compliance monitoring inspections for aerial applications that occur in Marin County, whether restricted or non-restricted.
- Perform a greater number of structural and maintenance gardening residential pest control pesticide application use inspections.
- Keep on track with timely follow up inspections.

## **Goals and Projected Deliverables**

- Ongoing evaluation of the program to ensure the Department handles situations based on risk levels which include but are not limited to review of non-compliance history, pesticide episode occurrences, pesticide use activities and complaints.
- An annual RMP/OPID renewal cycle to check in with ranchers/growers on a yearly basis.
- Variable frequency of inspection plan for headquarters and business records that enables the Department to concentrate inspection efforts on permittees with higher risk activities or a history of non-compliance. All permittees/OPID holders are initially placed on a three year records inspection cycle. If non-compliances are noted, the frequency of inspection is moved up to one year and remains there until repeated compliance is achieved. Several growers remain on one-year inspection frequency due to handler and field worker employees.
- All home-based registered Pest Control Advisors and Pest Control Businesses as well as permittees and OPID holders are entered in an Access database which tracks when records inspections are due. Inspections that are due are split up between staff members, based on levels of experience, expertise and geographic location within the county.
- Results of inspections and investigations of an interesting or unusual nature are shared with other Inspectors as training tools.
- The Supervising Inspector has a backup program leader who is continuously training for succession planning.
- The Supervising Inspector works with and continuously trains other Inspectors.
- A decrease in non-compliances due to the Department's steady enforcement presence and outreach efforts.
- Refining targeted inspection strategies may in the short term, however, increase the number of non-compliances identified.
- Increased awareness of Inspectors of organic and sensitive site locations.
- Education and literature to follow up with those businesses and individuals with non-compliances.
- Creation of a public service announcement addressing pesticide use, who we are and the services we provide.

## **Measures of Success**

- Each year the Department writes a letter that is given to agricultural and structural pest control businesses upon registration in Marin County. The subjects contained within the letter change each year and are based on the Department's observations and findings of the regulated industry of the previous year. The yearly ongoing topic is the push for on line pesticide use reporting. Other current and past topics include notification, labeling and placement of rodent bait boxes, new laws and regulations updates, instructions for

filling out use reports, etc. The number of complaints received involving rodent bait boxes and notification have dropped as outreach continues.

- Increased staff knowledge by sharing of investigative findings and ongoing training.
- Maintain low number of returned/incomplete investigations (since 1997, Marin CAC has not had any investigations returned for errors or incompleteness).

The Marin County Department of Agriculture regularly meets or exceeds the California DPR's evaluation criteria for compliance monitoring over the past nineteen years.

### 3. **Enforcement Response**

#### **Current Status**

The Department assesses the findings of all investigations and inspections for the appropriate enforcement response. The inspection form, with noted non-compliances, serves as the Notice of Violation. However, the Department utilizes all compliance and enforcement options (Letters of Warning, Compliance Interviews) when addressing violations. It is the Department's policy to educate violators as to the correct compliance standards and to utilize effective follow-up measures to ensure future compliance. Compliance histories are maintained in folders and referenced prior to initiating enforcement response, which takes into consideration inspections, registration dates, investigations, use reporting, and OPID's, and RMP accuracy and issue dates. The Inspector reviews compliance history with the Supervising Inspector and refers to the ERR's to determine where the violation fits into the enforcement response hierarchy. The Inspector makes a recommendation as to the appropriate type of response and it is discussed with the Supervising Inspector. The Inspector, when appropriate according to the ERR's, completes a Decision Report (DR) to document the Commissioner's decision not to take an enforcement action. When an enforcement action is required, the Inspector writes a Notice of Proposed Action (NOPA). Per DPR's recommendation, the Inspector will share a DR or NOPA content with the Marin County EBL for accuracy and compliance. The Deputy Agricultural Commissioner contacts the offender by phone prior to mailing the NOPA, a process that has been successful in educating as well as laying a smooth foundation for the enforcement process. Fines are automatically placed in the middle of the appropriate range, and adjusted upward or downward according to aggravating or mitigating circumstances.

#### **Planned Improvement**

- Test and implement CalPEATS using our tablet and smartphones.
- Have three new inspectors obtain licenses in pesticide regulation, and investigation and environmental monitoring.
- One inspector has yet to attend DPR's Basic Inspector Academy. We will send them at the soonest possible opportunity.
- Send new inspectors to the Coast Area Pesticide Enforcement Group (CAPEG) area group meetings for training purposes.
- Send Inspectors again to DPR advocate and hearing officer training courses when they are offered.
- Send Inspectors again to DPR structural training courses when they are offered.
- Practice on "Elements of the Violation" exercises.

## **Goals and Projected Deliverables**

- Assess each violation and take appropriate enforcement action following the provisions of the ERR's in a timely manner, generally within 30 – 60 days from the date of occurrence. Timeliness further protects against compromised evidence.
- Conduct follow up inspections within 30 – 60 days.
- Prepare DR within 60 days of a non-compliance.
- Notify the DPR Enforcement Branch Liaison and/or the Structural Pest Control Board of all NOPA's and hearings requested.
- Maintain a close and effective relationship with the Marin County District Attorney's Office.
- The Department will ensure compliance by responding appropriately to all violations and following the ERR's. We insure all enforcement/compliance actions are rendered fairly, consistently and in a timely manner. Our goal is to obtain compliance and increase awareness. Education remains a key component of pesticide compliance. Locally, the Department is committed to providing information and services to help growers and pesticide applicators stay in compliance with labels, laws and regulations. The Department is committed to taking the time to meet and educate industry members.
- Violators are placed on an increased frequency of inspection.

## **Measures of Success**

- Inspectors are trained early on to participate in the entire enforcement process from beginning to end, including writing DR's and NOPA's. This helps ensure Inspectors remain proficient with the administrative civil penalty process.
- Decreased pesticide use complaints from the public.
- Staff members work closely together and share experiences of their investigative findings, thereby enriching and raising the knowledge pool within the office.
- Be able to move away from paper inspections to digital inspections via CalPEATS.

The Marin County Department of Agriculture has met or exceeded the California DPR's evaluation criteria for enforcement response over the past sixteen years.

## PRIORITIES AND OTHER PESTICIDE REGULATORY ACTIVITIES

- A. Non-Fumigant VOC Regulation Compliance (San Joaquin Valley), when regulations are final

***Not applicable***

- B. Compliance with Soil Fumigant Phase II Labeling (December 1, 2012)

***Not applicable***

- C. Chloropicrin mitigation measures when implemented by DPR

***Not applicable***

- D. Structural inspection activity of Branch 1, 2 and 3 applications

**We routinely work to inspect Branch 1, 2, and 3 applications.**

- 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

***Not applicable***

- F. Training of county staff on pesticide law and regulation, DPR policy and compendiums

**Training within the County is on-going and we regularly attend DPR trainings, local area group meetings and all other PUE-related training opportunities: our goal is to be in alignment with the State and other Counties' interpretations of the laws and regulations.**

- G. Compliance with school pesticide use reporting (FAC 13186 and 3CCR 6625)

**Marin County is always available to assist with any school pesticide use reporting issues.**

- H. For pilot counties, activities related to the Secured Web Access (SAW) illness investigation reporting

**We regularly utilize SAW.**

- I. Compliance with Ground Water Regulations (i.e., participation with DP's Environmental Monitoring Branch on related studies)

***Not applicable***

- J. Chilean Fruit Air Monitoring (CFAM) and other commodity fumigation focused activities

***Not applicable***

- K. Regulatory outreach and education. Describe subject(s) and audience

**Marin County does regular outreach to users of CalAgPermits (PURs), unlicensed maintenance gardeners (licensing, laws & regulations, compliance, use reporting,**

**IPM techniques etc.), and members of the public (notification requirements, laws & regulations, IPM techniques). We also send an annual letter to structural and agricultural pest control businesses detailing some of the major areas where we are finding compliance issues.**

- L. Review investigations and cases for possible referral to DPR for state action (ENF 09-18)

**Yes.**

- M. Compliance with Non-Ag Surface Water Regulations

**We enforce surface water regulations. Our staff is trained to address these issues at the time of inspection.**

- N. Ensure compliance with recent U.S. EPA approved rodenticide label changes

**Yes.**

- O. Focused inspections on employers with employees under medical supervision (3CCR 6728)

***Not applicable***

- P. Reporting to DPR, complaints or report of loss related to bee kills associated with an alleged pesticide application(s)

**Yes.**

- Q. Collaboration with DPR in addressing U.S. EPA activities or requests

**Marin County is a partner of DPR and, when possible, is always available to assist with regulatory matters and/or issues of public safety.**