



A Tradition of Stewardship
A Commitment to Service

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PESTICIDE USE ENFORCEMENT PROGRAM ENFORCEMENT WORK PLAN

**NAPA COUNTY
AGRICULTURAL COMMISSIONER'S OFFICE**

**2014-2016
January 2014**

A. RESTRICTED MATERIAL PERMITTING

Current Status

The Napa County Agricultural Commissioner's Office (CAC) issues and denies Restricted Material Permits (RMPs) based on the guidelines described in California Department of Pesticide Regulation's (CDPR) Restricted Materials and Permitting, Pesticide Use Enforcement Program Standards Compendium Volume III. A permit denial is logged and the CDPR Permit Refusal form is completed and provided to the growers for their due process rights.

Restricted material use is minimal and pre-plant fumigations have steadily declined in recent years. Currently there are 77 RMPs and 611 Operator Identification Numbers (Op IDs) issued in Napa County. Permit conditions are reviewed with growers and are automatically printed during permit issuance. During the year, 107 non-production agriculture Op IDs were issued for the use of Sulfur Dioxide (SO₂) barrel fumigation in wineries.

Beginning in 2012, the Napa CAC began using the CalAgPermits program to issue Op IDs and RMPs. The use of this program allows Napa CAC to accurately identify agricultural production sites and any sensitive areas on or near the properties more efficiently. Napa CAC prioritizes site monitoring for planned restricted material applications based on the potential for the chemicals to cause harm to the environment or human health. In fiscal year (FY) 2012-2013, Napa CAC received 64 Notice of Intent (NOIs) and denied a total of 4. The majority of Napa CAC restricted material applications are specifically for rodent control in and around vineyard sites.

All fumigation applications sites are monitored with special attention paid to jobs in the most sensitive areas. Site visits are made before any permits are written for fumigants and, in the case of methyl bromide, a work site plan must be completed. Since only one fumigation company was registered to work in Napa County, we did not document each application with an inspection.

Pre-application inspections are performed on all phenoxy herbicide NOIs to assess any potential impact to grapes from such applications. Restricted material applications at the ag/urban interface are also carefully monitored.

Goals or Objectives

The Napa CAC Office is to accurately evaluate restricted material permit applications and issue or deny permits following the requirements outlined in CDPR's Restricted Materials and Permitting, Pesticide Use Enforcement Program Standards Compendium Volume III.

Measures of Success

Napa CAC semi-annually evaluates the program for how well we identify sensitive sites prior to issuing a permit. A California RMP issued from Napa CAC includes a map identifying any sensitive areas. We have also made a continued effort during renewal season to keep the CalAgPermits database up to date with the most current information. We accomplish this task by having three staff members review and correct data soon after the RMP or Op ID has been issued.

Napa CAC's use of a monitoring plan includes the review of submitted NOI's. Pre-site application inspections will be completed at a minimum of 5% of the total annual NOI's received. The focus will be on materials with the greatest potential for causing human health problems or environmental/property damage, taking into account the conditions at each site.

B. COMPLIANCE MONITORING

Current Status

Each year, the Napa CAC develops an inspection assignment program for staff assigned to conduct PUE inspections. A specific number of inspections is assigned to each biologist based on experience in the program and the time available to work in PUE. Work on weekends, early mornings, and evenings allows for a broader targeting strategy and gives us contact with pesticide applicators that do not typically operate during the week or daylight hours. Surveillance on weekends focuses on both ag and non-ag pesticide applicators. The implementation of a weekend, early morning, and evening inspection program makes it clear to growers and PCBs that they must be in compliance at all times and that inspections are conducted during periods other than normal business hours.

Ag biologists use the AIRS electronic inspection program developed by Statewide Soft. Each inspection is downloaded to the database at the end of each month. While in the field, the biologists have access to the database on their tablet PCs and can check on the compliance history of the growers they are inspecting. Napa CAC staff works directly with Statewide Soft to enhance the available program reports to efficiently and accurately track inspections for completion of the monthly Pesticide Regulatory Activities Monthly Report (PRAMR) and to better assess compliance trends.

The PUE deputy and agricultural biologist IV consult with biologists on their inspection activities. Direction is provided for records inspection and monitoring inspection targeting strategies at scheduled in-house PUE meetings. More individual training on inspection strategies for less experienced staff will be handled by the deputy, bio IV, and other experienced ag biologists. The deputy and bio IV, as well as the DPR Enforcement Branch Liaison (EBL), accompany newer staff members on unfamiliar or difficult inspections. Inspection activities will be targeted to growers/businesses with employees or those with a history of non-compliances. The deputy reviews all inspections prior to their logging for PRAMR purposes and discusses with the inspecting biologist any follow-up needs and any potential compliance or enforcement actions necessary.

Use Monitoring Inspections

Biologists are given assignments to complete a certain amount of agricultural application, mix/load, and fieldworker safety inspections. These application inspections are handled in a random fashion. They are encouraged to travel throughout all of Napa County, not just along Highway 29 and the Silverado Trail, the two main north-south arteries. During the 12/13 FY, 177 inspections were completed with a total of 56 non-compliances documented. Special attention focuses on small growers that may be operating with little regulatory contact from our office and who are in need of direction and assistance to establish and maintain compliance with regulatory requirements. A monthly calendar is supplied to the enforcement branch liaison (EBL) to help facilitate oversight inspections for CDPR.

Pest Control Records Inspections

Each biologist is assigned a group of growers and pest control businesses (PCBs) to conduct records inspections. The focus of these inspections is on operators with pesticide handler employees, RMPs, and poor compliance records. Small growers without employees are given a lower priority unless problems with compliance are known or suspected. During the 12/13 FY, 163 inspections were completed with a total of 41 non-compliances documented. A continued emphasis during records inspections is on grower and PCB compliance with respirator regulation implementation and record keeping. Outreach regarding these and other regulations will be directed through continuing education classes; hands-on workshops; the Napa County Ag Commissioner's website; and the annual department newsletter.

Structural Pest Control Inspections

Biologists are also assigned a number of structural inspections to complete every year. Structural Branch 2 and 3 inspections are done at random. Structural Branch 1 inspections are targeted based on an NOI that is sent in by the fumigation company. A biologist reviews the NOI and plans to be available on the date of the fumigation in order to do the inspection. Structural pest control records inspections are much less frequent due to the fact that we only have 5 structural pest control companies headquartered in Napa County. During the 12/13 FY, 22 inspections were completed with a total of 2 non-compliances documented.

Planned Improvement

- Conduct follow-ups within 30 days of initial inspection. Review with biologists the importance of follow-ups and provide more supervisory overview to make sure that they are completed.
- Provide better documentation of non-compliances through extensive, detailed notes and photographs on the inspection form.
- Continue to improve on consistent and timely enforcement actions.
- Conduct more Structural Pest Control Inspections.

Goals or Objectives

Biologists conducting inspections should interpret the California Food and Agricultural Code and 3CCR in a similar manner. When violations are found during an inspection, that inspector should gather enough information to prove the elements of the violation.

Napa plans to complete 127 pesticide use monitoring inspections, 3 field fumigations, 45 field worker inspections, 94 mix/load inspections, 117 pest control records inspections, 6 Structural Branch 1 inspections and, 44 Structural Branch 2 for FY13/14.

Measures of Success

A measure of success will be completing the 436 pesticide use enforcement inspections for FY 13/14. Another important measure of success for Napa CAC is the consistent interpretation of the Code. This markedly improves our ability to prove the elements of the violation when non-compliances are found.

C. ENFORCEMENT RESPONSE

Current Status

The Napa CAC assesses the results of all inspections and investigations for the appropriate enforcement response. When violations are discovered during records and field inspections, appropriate, timely follow-ups are conducted, or a compliance action is issued. Currently, biologists meet with the deputy or bio IV of the PUE program on the same day or the following morning in order to discuss non-compliances found during the course of an inspection. The inspector and bio IV discuss the elements of the violation and the compliance history for that particular company. The violation class is assessed and the compliance history is considered in order to determine the appropriate action to take as dictated by the Enforcement Response Regulations (ERR) Title 3 California Code of Regulations (3CCR) section 6128. Field inspections with non-compliances often lead to the scheduling of records inspections to assess overall compliance with laws and regulations. Another records inspection may be conducted during the following year with the grower or businesses to determine if compliance is still being met following the initial correction of the violation from the first inspection. Additionally, monthly inspection review meetings are held to discuss what inspectors are seeing in the field, allowing the opportunity to communicate and ask questions about code sections, growers, and other issues that may arise. Thus, an open dialogue is created among inspectors; it strengthens the Napa CAC team and ensures consistency with inspections.

Compliance or enforcement actions are tracked in an Enforcement Log spreadsheet that details all inspections with non-compliances. The bio IV logs each inspection and, after assessing the violation class, works with the inspector from start to finish ensuring that the appropriate action is taken in a timely manner. Letter of warnings (LOWs), notice of violations (NOVs), notice of proposed actions (NOPAs) and decision reports (DRs) are documented, accounting for submission dates and inspecting biologists.

During the 2012-2013 fiscal years, Napa CAC issued 5 separate fines for various violations. In the current fiscal year, 2013-2014, 1 fine has been issued to a grower.

Planned Improvement

- Develop more consistency in submittal of all decision reports to DPR in accordance with the 3CCR 6128 Enforcement Response.
- Improve communication among biologists, deputy, and assistant commissioner during case preparation and NOPA development.
- Continue to improve the tracking of compliance actions and enforcement actions.

Goals or Objectives

- Placement of fines at appropriate levels, based on the circumstances of the case.
- Development of a thorough investigative report to serve as the foundation for the agricultural civil penalty (ACP) or structural civil penalty (SCP).
- A commitment has been made to continue to assess each violation found during inspections and investigations, and to take actions in accordance with 3CCR 6128 Enforcement Response.

Measures of Success

The success of the program is based on the appropriate and consistent application of enforcement or compliance actions whenever violations are found, in accordance with the 3CCR 6128 Enforcement Response.

Priorities and other Pesticide Regulator Activities

Industry Education and Outreach

Continually educating pesticide users of their responsibilities in worker safety is a strategy to aid in the reduction of non-compliance rates and can be accomplished through various outreach mechanisms. Napa CAC utilizes the AIRS inspection program to analyze the non-compliances we are finding in the field in order to address the issues most commonly encountered. We are able to develop trainings that target these non-compliances and educate growers about regulatory requirements. Education is facilitated through the department website, the annual newsletter, and at our continuing education classes conducted in both English and Spanish. Additional outreach and trainings are facilitated by the Napa County Farm Bureau, Napa Valley Grapegrowers, as well as individual PCBs. A large majority of this outreach is directed to Spanish speaking agricultural workers. Napa CAC has partnered with DPR for outreach to families of agricultural workers and has participated in health fairs conducted by local clinics. We will continue to update growers and PCB's on how to be compliant with the current respirator regulations. Outreach regarding these and other regulations will be directed through continuing education classes, hands on workshops, our website and, our annual department newsletters to industry.

Staff Training

Napa CAC staff has made and will continue to make an effort to attend DPR sponsored trainings, events and seminars to ensure staff are properly trained. Staff that gets the opportunity to attend trainings will consult with their peers and relay the information presented at those trainings.