

**ORANGE COUNTY AGRICULTURAL COMMISSIONER
ENFORCEMENT WORK PLAN
January 2015 through December 2017**

The Orange County Agricultural Commissioner (ORA CAC) Pesticide Use Enforcement Work Plan has been developed using the Department of Pesticide Regulation (DPR), Enforcement Letter Number 0818 and ENF 12-20. The Orange County work plan will be a three year plan from January 1, 2015 through December 31, 2017.

The ORA CAC Pesticide Use Enforcement (PUE) program consists of the following components:

- Restricted Materials Permitting
- Compliance Monitoring
- Enforcement Response
- Outreach

During calendar year (CY) 2012, 2013 and 2014 about 17,000 hours each year were expended. There are various staff members who work at various levels in the Orange County Pesticide PUE program. For the 2015-2017 contract staff members will include an administrative manager at 100%, two clerical staff members at 100%, and a supervisor at 100%. There are four district inspectors who work approximately 30% of their time in PUE, and four PUE specialists who work approximately 85% of their time in the program, and two PUE specialists who work 60% in the program. Field inspection hours equate into six full time field inspectors, and four full time staff members in the office.

The following is a breakdown of the core enforcement program by component with the anticipated staffing hours including the structural fumigation enforcement program for each of CY 2015, 2016, and 2017.

Restricted Materials Permitting/NOI review	800	hours
Compliance Monitoring (Inspections)	4,000	hours
Compliance Monitoring (Investigations)	1,200	hours
Enforcement Response	1,000	hours
Structural Fumigation Enforcement Program (SFEP)	4,600	hours
Supervision / Management	550	hours
Office Support (Includes Pesticide Use Report Processing)	3,900	hours
Registration	700	hours

Outreach	300 hours
Total hours	17,050

Orange County does not have any additional “field” offices. Inspectors use their personal vehicles for transportation and have county cell phones for use to conduct their work. Computers are available at the office for the inspectors use to receive and respond to email and access to DPR enforcement web site and other information available on line.

A. RESTRICTED MATERIALS PERMITTING

The annual evaluation by DPR of ORA CAC’s Restricted Materials Permit Program has consistently been found to meet the required standards with no corrective actions needed. ORA CAC has been able to maintain this standard through self-evaluation.

Orange County is continually becoming more urbanized; the pesticide use enforcement program faces numerous issues in regulating pesticide use. All of the fumigated fields are near sensitive sites such as residences, schools, parks, industrial areas and other locations that may become developed in a short period of time. This requires additional time and knowledge of the sites to issue restricted materials permit for use at these sites. In many cases, our permit conditions go beyond the established state guidelines in order to adequately protect the public, the environment and reduce the number of illnesses and complaints.

Goal: Issue permits according to the DPR Compendium Volume 3-the Restricted Materials Permitting Manual.

Deliverables:

1. ORA CAC will follow the DPR Enforcement Program Standards Compendium Volume 3 – Restricted Materials and Permit Manual. ORA CAC PUE staff attended the training for DPR Pesticide Use Enforcement Program Standards Compendium Volume 4 - Inspection Procedures in FY 2013-2014.
2. Encourage growers to educate the community through positive interaction year-round regarding farming practices and the safe use of pesticides through Farm Bureau meetings and Town Hall meetings.
3. Provide outreach and training to industry regarding changes in regulations, such as the field fumigation training session that were conducted during the summers of 2012, 2013, 2014 for growers. The ORA CAC will also provide information to the community regarding the safe use of pesticides.

4. Issue permits with the conditions necessary to adequately protect the public and the environment. All entities that utilize soil fumigants are required to be in compliance with Phase II Soil Fumigant Labeling Changes concerning chloropicrin and methyl bromide. Aluminum Phosphide Label changes have also been incorporated into the restricted materials permit program for the 2014 calendar year.
5. Perform inspections at a level that will achieve the compliance necessary to reduce possible exposure and complaints by the public.

Annual Procedure for Permit Issuance:

November

- Current year permits are reviewed by the issuing inspector, including a discussion with the permittees regarding alternatives, to identify any mitigation measures and to make additional changes for the upcoming year.
- County records are evaluated to determine past permittee and/or site related compliance issues that may need to be addressed during permit issuance.
- Information packets are sent to current permittees with instructions on permit issuance, required documents necessary for renewing permit, and a scheduled day and time for permittee to apply for reissuance.
- Clerical staff inputs permit changes into permit database.

December/January

- Updated permits for the next year are printed and distributed to inspectors.
- Inspectors visit sites to assess the need for additional mitigation measures or permit conditions and meet with permittees to discuss site conditions, and review all pertinent paperwork.
- Private Applicator Exams are given as necessary to permittees who are included in the regulatory certification requirement.
- Informational packets are given to the permittee including changes for the coming year.
- Based on the review and evaluation of the permit application, if appropriate, the permit is issued.

Multi-Year Permit Issuance procedure:

Entities that are eligible for an Orange County multi-year permit includes cities, golf courses, school districts and cemeteries that are placed on a schedule establishing a rotation cycle for 3 year renewal. The multiyear permits are processed the same as annual permits. In the following years, multi-year permits will be phased out, and all entities will be issued an annual permit.

Orange County Permits:

Agricultural Restricted Materials Permits	186
Multi-Year Permits-Operator IDs	87
Non-agricultural Restricted Materials	17
Operator Identifications	290

Over 91% of the Restricted Materials Permits are agricultural use permits that are issued each year to the same applicant, with similar pesticides for use on the same sites. Agricultural Inspectors generally have the same operators assigned to them each year and are familiar with the operator's business, compliance history, and surrounding areas that may be impacted by pesticide use.

New Permit Issuance Procedure:

As requests for permits are received, each request is evaluated, mitigating measures are discussed, and the site is evaluated. If the request meets the requirements of the Volume 3, Restricted Materials Permitting of the Pesticide Use Enforcement Program Standards Compendium, the permit may be issued.

In Orange County, during the months of December and January the majority of permits are issued. The following are processed each year, in addition to Restricted Materials Permits:

- 290 Operator Identification numbers are issued
- 400 Agricultural Pest Control Businesses registered annually
- 750 Structural Operators registered annually
- 60 Agricultural Pest Control Advisors registered annually
- 25 Certified Private Applicators examinations given annually
- 35 Pest Control Aircraft pilot (sterile release program) registered annually
- 2,600 Notice of Intent (NOI) reviewed during the year.

Site Monitoring Plan:

Orange County's existing site monitoring plan has been successful for many years. High priority is given to all restricted materials and sites within sensitive areas. Field fumigation sites are given the highest priority.

Due to the potential hazards associated with the use of fumigants that are used for agricultural soil fumigations, the ORA CAC will perform inspections on fields that are considered sensitive. The inspection will assure compliance with applicable laws, regulations, and permit conditions for the fumigant used in order to protect employees, the public and the environment.

Measures of Success:

1. Increased compliance with new regulations and permit conditions.
2. Reduce human exposure to fumigants for field workers and public bystanders through restricted material permit conditions.

B. COMPLIANCE MONITORING INSPECTIONS AND INVESTIGATIONS

The annual evaluation by DPR of ORA CAC Compliance Monitoring Program has consistently been found to meet the required standards with no corrective actions needed. ORA CAC has achieved this through diligent self-evaluation of the current Compliance Monitoring Program.

Goals:

All investigations and inspections will be conducted according to the Department of Pesticide Regulation's guidelines. Investigations will be thorough, and completed in a timely manner.

Investigation Work Plan

The Orange County Agricultural Commissioner's office considers investigations related to pesticide illness, injury and complaints, a high priority. Each year the number of illnesses, injuries and complaints will vary. During CY 2012, 2013, and 2014, ORA CAC staff performed approximately 225 investigations; this total included DPR WH&S assigned and other complaints. Seven of these investigations met US EPA priority criteria. We have 9 licensed staff members that are trained to do investigations. The majority of the investigations we perform involve structural pest control activities and antimicrobials. We have seen an increase in the number of pesticide complaints from the public concerning neighbors, HOA's and pest control businesses. Complaints concerning the use of fumigants during structural fumigations are given the highest priority.

The investigations will be thorough and completed in a timely manner by doing the following:

Deliverables:

1. Provide training to inspectors/investigators to assure their knowledge of the proper techniques in investigation evidence gathering and writing investigation

- reports. Inspectors recently received training in FY 2013/2014, and during the FY 2014/2015 from the Department of Pesticide Regulation.
2. Orange County participates in the SAW reporting program for investigations and illnesses.
 3. Continue our internal tracking system to ensure timeliness in completion and submission of investigation reports to DPR.
 4. ORA CAC will consult with the DPR EBL on high profile WH&S investigations and complaints.
 5. ORA CAC will follow the DPR Compendium Volume 5 Investigation Procedures when conducting investigations and in writing the reports. Orange County CAC attended the 2013 Pesticide Sampling Training Session which was conducted by DPR.
 6. ORA CAC investigations are reviewed for completion and accuracy by the Administrative Manager or the Program Supervisor in PUE prior to being submitted to DPR.

Measures of Success:

1. In ensuring that these procedures are followed, we can guarantee that complainants concerns are addressed.
2. Stakeholders are confident that concerns are addressed, and objective resolutions are enacted, and in effect concerns are alleviated between all stakeholders.

Comprehensive Inspection Plan:

We will continue to perform approximately 1,695 total pesticide inspections annually. This includes application, mix/load, field worker safety, and headquarters inspections.

Inspection Prioritization:

The highest priority inspections/investigations in Orange County and our plan for accomplishing these activities are the following:

Field fumigations – There are approximately 25 total sites of which many are sensitive sites. Our goal is to perform inspections on percentage of the sensitive sites and monitor the permitting process closely. We work closely with growers throughout all phases of the fumigation of fields near schools, residences, and other sensitive sites, to minimize the possibility of an incident. Our plan is to work with the growers on alternative fumigants and consider all appropriate mitigation measures to reduce risk, such as requiring that all growers comply with Soil Fumigant Phase II Labeling. New Phase II

Soil Fumigant Labeling changes were put into effect to reduce the amount of Volatile Organic Compounds which are released into the atmosphere, thus protecting workers and the public from increased acute exposure. Chloropicrin, which is a common fumigant, is permitted to be applied in Orange County provided that it is applied using the appropriate tarps as required by the Phase II Soil Fumigant Labeling changes.

Structural fumigation – Approximately 15,500 Notices of Intent for structural fumigation, or Branch 1 activity, are received each year in Orange County. Due to the potential problems associated with structural fumigations, toxicity, the large numbers of structures fumigated in Orange County, and public concern, structural fumigation inspections are a high priority. Orange County has participated in the Structural Fumigation Enforcement Program (SFEP) for more than 20 years. This program was initiated through industry-sponsored legislation and funded by the structural industry. The program has improved compliance through increased inspection levels, enhanced communication with registrants and the Branch I industry, and improved cooperation between industry and ORA CAC. The goal is to continue the high level of inspection activity (approximately 17% of all jobs, and 3% of jobs with crews on site) of the 15,500 structures fumigated in Orange County annually.

Structural Branches 2 & 3 and non-production agricultural pest control represent a large segment of the commercial pesticide use in Orange County. Although the majority of pesticides used are categorized as “caution” materials, the widespread use and the potential for worker safety violations and complaints, justifies allocating inspection resources to assure compliance.

Gaining compliance of pest control companies, including companies that are unlicensed and others with a history of noncompliance are also a priority. This will be accomplished by increasing inspection levels and enforcement actions as necessary, as well as outreach efforts. Between the FY 2013/2014, 186 Notices of Proposed Action were processed against unlicensed Pest Control Business/Maintenance Gardeners.

Goals:

To assure that the highest priority inspections are being performed, all inspections are performed in a thorough manner, and all pertinent evidence is collected, resulting in successful enforcement actions.

Deliverables:

1. Completed inspection forms are reviewed by the Administrative Manager and the Supervisor. Reports must be thorough and legible.
2. Pertinent information is documented on the inspection form in the *remarks section*, when a noncompliance is found.

3. Managers will closely track the program to ensure highest priority inspections and any necessary follow-up activities are being completed.
4. Retain flexibility to shift resources if priorities change.

Measures of Success:

1. Program success will be measured by improved compliance within the areas of the focused inspections listed below.

The following list estimates the number of inspections to be performed by ORA CAC PUE staff for CY 2015, 2016, and 2017.

Completed Investigations (Human Effects, Environmental, Effects, Property Loss/Damage, Other) **100%**

Application Inspections (Non-Fumigation)

- Property Operator (Grower, Government) – 20
- Pest Control Business (Agricultural, including Maintenance Gardener) – 80
- Structural (Application/Mix Load)
 - Branch II – 30-
 - Branch III – 5

Field Worker Safety Inspections-15

Mix/Load Inspections

- Property Operator (Grower, Government) – 20
- Pest Control Business (Agricultural, including Maintenance Gardener) – 15

Fumigation Monitoring Inspections

- Field – 35
- Aluminum Phosphide – 20
- Structural Branch 1 (PRAMR) Complete Inspections – 120-
- Structural Branch 1 (SFEP) Complete Inspections – 120
- Structural Branch 1 (PRAMR & SFEP) Partial Inspections –approximately 1000

Headquarters/Employee Safety Records Inspections

- Property Operator (Grower, Government) – 70
- Pest Control Business (Agricultural, including Maintenance Gardener) – 70
- Structural Pest Control Operator – 70

Permit Monitoring

- Pre- site Evaluations (5%) – approximately 95
- Use Monitoring-Non Ag Permit Holders (100%) 17

Pest Control Business Record Inspections

- Agricultural-70
- Structural-70

Pest Control Dealer Record Inspections-10

Agricultural Pest Control Advisor Record Inspections-5

Total Compliance Monitoring Inspections 1,950

C. ENFORCEMENT RESPONSE

The Orange County Enforcement Response program has consistently been found to meet DPR standards with no corrective actions needed. ORA CAC has achieved this through diligent self-evaluation of the current Enforcement Response program.

Goals:

- 1) The Enforcement Branch Liaison (EBL) will be notified in a timely manner of all ACP/SCP hearings as soon as they are requested by the respondent.
- 2) The EBL will be notified in a timely manner of any enforcement cases referred for either licensing action to agencies such as the Structural Board or referrals for city/district attorney prosecution, etc.

Deliverables:

All inspections and investigations resulting in violations will be addressed according to the enforcement response regulations (ERR), drafted by DPR, to aid us in our enforcement actions towards industry.

Orange County's current Enforcement Response Plan has provided a sound basis for consistency and appropriateness in the actions taken. The Enforcement Response Program is made-up of the following components.

- 1) When a noncompliance is found, the Administrative Manager or the Program Supervisor discusses the noncompliance with the field inspector to determine and review all necessary information.
- 2) ORA CAC will follow the Enforcement Response Regulations guidelines.
- 3) ORA CAC PUE Violation Review Committee, which consists of the Program Supervisor and the Administrative Manager for PUE, will review each case to consider the appropriate level of action to take.

- 4) A Notice of Violation or Letter of Warning is issued for every noncompliance found to notify the respondent and document the noncompliance.
- 5) If an enforcement action is determined to be appropriate, a Notice of Proposed Action is developed and sent by certified mail to the respondent. Each Notice of Proposed Action is written by inspection staff, and reviewed by the PUE Administrative Manager.
- 6) Civil penalty actions are tracked quarterly to ensure timeliness in issuance to the respondent and completion of each action.
- 7) ORA CAC staff attended the 2011, 2012 advocate training which was provided through DPR at the San Diego Agricultural Commissioner Weights and Measures Department, and Orange County Agricultural Commissioner Weights and Measures Department.

Measures of Success:

1. Minimizing the time between the discovery of a noncompliance and initiating the appropriate action taken by scheduling a Violation Review Committee meeting once every month or as needed.
2. Enhancing the existing ORA CAC civil penalty hearing process through appropriate in-house staff training and by attending any future DPR training that covers this part of the program.
3. Success of the ORA CAC enforcement program will also be measured through improved compliance, particularly by companies and employees that have had prior enforcement or compliance actions taken against them.

D. TRAINING AND OUTREACH

The Orange County Training and Outreach program has consistently been found to meet DPR standards with no corrective actions needed. ORA CAC has achieved this through diligent self-evaluation of the current Training and Outreach program.

We seek to gain compliance amongst industry through education and outreach. During registration, we provide new information to parties operating in Orange County, such as regulations pertaining to Surface Water Regulations and Second Generation Rodenticides, as well as any other new regulations or persistent issues. We strive to educate industry through our continued participation with organizations such as PAPA, CAPCA, PCOC, Orange County Farm Bureau, the Strike Force Committee, private industry and the Structural Fumigation Enforcement Committee. Many of these groups meet on a monthly basis. We participate in the annual open house event that OC Public Works hosts to reach out to industry and the public as well.

In addition, we will be reaching out to unlicensed entities that are found to be advertising on the internet, as well as unlicensed entities that are advertising in local ads. To further our outreach efforts with unlicensed landscapers, we will be supplying application packets to landscapers in the field, and explaining the current licensing and registration regulations.

In the summer of 2012, 2013, and 2014 sessions were held to educate growers about the new regulations and label changes which went into effect in 2012 for soil fumigants. In addition, outreach sessions were held 2012-2014 Calendar Years to inform Pest Control Businesses about Cal Ag Permits, as well as the new Non-Ag Surface Water Regulations.

Goals and Deliverables:

1. Continue to provide outreach sessions to industry as new regulations arise.
2. Participate in industry sponsored outreach sessions.
3. Participate in industry sponsored committees.
4. Participate in training sessions provided by the State, and Federal agencies.

Measures of Success:

Our measure of success will be the continued cooperation between industry and the OC CAC.

In summary, ORA CAC will continue to maintain the high standards which DPR has set forth by internally monitoring and evaluating our PUE program, in accordance with the mutually agreed upon work plan.