



COUNTY OF PLACER

**AGRICULTURAL COMMISSIONER  
SEALER OF WEIGHTS & MEASURES**

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# **Placer County Agriculture Department Pesticide Use Enforcement Work Plan 2014 – 2016**

Revised 12/31/2013

# Pesticide Use Enforcement Resources Summary

## Licensed Personnel

- (1) Deputy Agricultural Commissioner
- (1) Supervising Agricultural Inspector
- (3) Senior Agricultural Inspectors
- (2) Agricultural Inspector II

## Licensed Hours Annual Workload

Year	Hours
2011	3,845
2012	4,272
2013	4,772

## Assets

- Each inspector has a vehicle and cell phone for his/her exclusive use.
- Each inspector has a computer workstation with individual email and internet access.
- The department has a dedicated pesticide use enforcement (PUE) computer workstation for issuing permits.
- The department currently has one iPad for field access to CalAgPermits (CAPS), county network, inspection procedures manuals and DPR website.

## Training

Inspectors attend Department of Pesticide Regulation (DPR) and PUE related trainings including:

- Structural Regulatory
- Phase 2 Fumigant Labeling
- Breaking Barriers
- Respiratory Protection
- Investigation Procedures
- Advocate's Challenge
- Hazard Communication
- First Responder Awareness
- USEPA/CalEPA Tribal Training
- CalEPA Basic Inspector Academy

## Core Program Areas

### I. Restricted Materials Permitting

#### A. Current Status

##### *Anticipated Annual Workload for 2014-2016*

- Restricted Material Permits (single year) – 115
- Notices of Intent – 435
- Annual Sites – 600
- Operator IDs – 175
- Ag Pest Control Businesses – 165
- Structural Operator Notices – 150
- Ag Pest Control Advisors – 60
- Pest Control Pilots – 25
- Private Applicators – 15

##### *Permit Issuance Procedures*

- Production agriculture restricted material permits (RMP) are issued to property operators, or authorized designees, or to pest control business (PCB) for non-production agricultural operations.
- RMPs are issued annually for the calendar year, expiring on December 31, except for rice permits which expire March 31 annually.
- RMPs are issued using CAPS.
- RMP sites are evaluated prior to the issuance of the permit utilizing: inspector knowledge, historical information, Geographic Information System (GIS) features, aerial imagery and site boundaries within CAPS.
- Sensitive sites crops are identified and evaluated. Known sensitive sites include: hospitals, schools, parks and playgrounds, residential areas, lakes and waterways, wildlife areas, critical habitat for rare, endangered or threatened species, and livestock pasture and range.
- Feasible alternatives to restricted materials are considered and implemented when appropriate.
- Inspectors ensure permit applicants are qualified to obtain RMPs.
- Private applicator exams are issued and certification is verified.
- RMPs are conditioned to address potential adverse impacts
- Permittees are informed that they are responsible for compliance with all RMP conditions.
- Appropriate permit conditions are provided and discussed with permittees.
- The permittee signs for permit conditions.
- Previous violations are reviewed and discussed.
- Applicants are asked if they have employees.
- If applicant has employees who handle pesticides, or fieldworkers, appropriate worker safety and training requirements are discussed.

- Pesticide use report (PUR) requirements are reviewed, including CAPS webuser accounts.
- Respirator regulations are discussed with permittees who have employees.
- Wellhead protection regulations are discussed with permittees.
- Watershed management information is provided to new permittees.
- Dormant spray/surface water runoff requirements are provided when appropriate.
- All RMPs and Operator IDs (OID) are recorded in separate logs when issued.
- Permittees receive copies of all documents issued during the permit process.

#### *Notice of Intent Procedures*

- Notice of Intent (NOI) requirements are reviewed with permittees.
- NOIs are reviewed to ensure that they meet all applicable requirements.
- NOIs are denied or conditioned recognizing and utilizing appropriate mitigation measures for local conditions.
- If an NOI is filed for an application that is not made, the original NOI must be cancelled or a negative use report must be filed for that NOI.
- NOIs are accepted in person, by phone and online using CAPS. NOIs are not accepted by fax.
- A log of each NOI received is updated and maintained by clerical staff.
- A tape recording is made of NOIs submitted to verify the accuracy of the written NOI log.
- PURs are evaluated to ensure that a NOI was received for each restricted material application.

#### B. Planned Improvements

- Continue to evaluate sensitive sites. Residential encroachment into production agriculture areas, the expansion of production agriculture into new areas and rapidly changing demographics of the county will dictate additional changes to sensitive areas identified.
- Continue training Level II Inspectors in all aspects of RMP issuance, NOI review, and pre-site application inspections.
- Routinely work with DPR Enforcement Branch Liaison (EBL) to provide PUE program training and oversight.
- Utilize iPad and mobile technology to access CalAgPermits, county network and DPR website.
- Update RMP conditions as necessary and appropriate.
- Cooperate with neighboring counties to ensure ongoing protection of crops and sensitive areas.

C. Goals and Projected Deliverables

- Meet all requirements for permit issuance prescribed by law and DPR policy.
- Review all NOIs submitted prior to proposed use.
- Document the results of each NOI review and follow DPR guidance when denying NOIs.
- Conduct a site evaluation or a monitoring inspection with each non-agricultural permit holder once per year.
- Implement second generation rodenticide RMP requirements when regulations become effective and continue to emphasize labeling requirements for aluminum phosphide to permittees.
- Report to DPR complaints or hive losses due to alleged pesticide applications.
- Attend DPR trainings.
- Conduct pre-site application inspections for no less than 5% of proposed agricultural restricted material applications.
- Evaluate all permits for adverse environmental impacts.
- Organize an annual continuing education course for Private Applicators and other Certified Applicators.
- Fully train an additional inspector in all aspects of RMP issuance, NOI review, and pre-site application inspections.

D. Measures of Success

- Number of trainings attended by staff.
- Additional sensitive sites identified on RMPs and protected.
- Reduce number of complaints and incidents related to RMP applications.
- Number of pre-site inspections completed in comparison to NOIs submitted.
- Increased number of growers and businesses using CAPS to submit NOIs and pesticide use reports.
- Complete RMP training to Level II inspectors including proficiency using CAPS.

## II. Compliance Monitoring

### A. Current Status

*Number of inspections performed in 2011, 2012 and 2013.*

<b>Inspection Type</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>
Preapplication	1	21	17
Use Monitoring	36	50	78
Field Fumigation	1	1	1
Mix/Load	9	13	13
Business Records	6	1	23
Dealer Records	1	6	10
HQ – Employee Safety Ag & Other	4	5	18
HQ – Employee Safety Business	5	3	31
Structural Fumigations	0	0	2
Structural Applications	13	14	36

#### *Compliance Activities*

- About 80% of production agricultural use monitoring inspections result from NOIs received. The remaining 20% result from surveillance activities.
- Most non-production agricultural use monitoring inspections are conducted as a result of routine surveillance activities.
- Rice pesticide use monitoring is a priority.
- PCB registrations, RMPs and OIDs are assessed to prioritize headquarter and record inspections.
- Copies of all completed inspection forms are maintained in PUE binders categorized by fiscal year.
- Records of all compliance inspection activities are entered into the department's Daily Activity Database.

### B. Planned Improvement

- Evaluate and focus surveillance and inspection activities on inspection types with poor compliance histories.
- Conduct surveillance in target areas on a scheduled basis.
- Improve inspection completeness and quality control.
- Continue training Level II Inspectors in all aspects of compliance monitoring.
- Actively work to identify unlicensed businesses performing pest control in Placer County. Perform active outreach to provide licensing information to such businesses.
- Conduct additional structural fumigation use monitoring inspections.
- Conduct dealer inspections at all locations on an annual basis.

- Conduct follow-up inspections on all non-compliances to ensure correction/closure of violations and report results of oversight follow-up to EBL.
- Increase opportunities for EBL to conduct oversight of rice pesticide applications and compliance monitoring activities.

#### C. Goals and Projected Deliverables

- Provide robust compliance monitoring and thorough environmental, consumer and worker safety protection for all regulated pesticide activities within Placer County.
- Identify and cease operations, or assist in proper licensing, for all unlicensed businesses performing pest control within Placer County.
- Conduct use monitoring inspections on 10% of structural fumigation applications.
- Conduct use monitoring inspections on all agricultural fumigation applications.
- Annually inspect all licensed dealers.
- Conduct HQ business record and employee safety inspections of all PCBs with main or branch offices within Placer County no less than once every three years.
- Verify school pesticide reporting requirements are being met during HQ records inspections.
- Continue to outreach to businesses and emphasize non-ag surface water regulations.
- Monitor water hold periods for all thiobencarb pesticides.
- Comply with soil fumigant Phase II labeling requirements, including applying DPR recommended permit conditions.
- Interact with EBL on a regular basis.
- Attend DPR trainings.
- Fully train Level II Inspectors in all aspects of compliance monitoring.
- Complete follow-up inspections for documented violations in a timely manner including HQ record and employee safety inspections for all businesses and operations based in Placer County. Report oversight inspection follow-up activity and results to EBL.
- Interact and cooperate with neighboring counties.
- Actively communicate regulatory requirements and updates to PCBs, licensed applicators and growers.
- Comply with DPRs Inspection Procedures Manual.

#### D. Measures of Success

- Reduction in number of unlicensed PCBs.
- Reduction in overall number of non-compliances documented due to proactive and successful department outreach and regulatory enforcement actions.<sup>1</sup>
- No returned inspection forms for completion or correction.

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<sup>1</sup> In the near term, the department may document an increase in non-compliances due to intensified emphasis on targeting unlicensed pest control operations.

### III. Enforcement Response

#### A. Current Status

*Number of non-compliances documented in 2011, 2012 and 2013.*

<b>Inspection Type</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>
Use Monitoring	64	83	170
Field Fumigation	0	0	0
Mix/Load	6	2	2
Business Records	1	2	6
Dealer Records	0	0	1
HQ – Employee Safety Ag & Other	1	0	5
HQ – Employee Safety Business	4	2	5
Structural Fumigations	0	0	0
Structural Applications	3	10	27

*Number of notices of violation, cease and desist orders and civil penalties issued in 2011, 2012 and 2013.*

<b>Compliance/Enforcement Actions</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>
Notices of Violation	23	31	72
Cease and Desist Orders	9	16	41
Administrative Civil Penalties	13	14	42

#### *Enforcement Response Regulations Administrative Procedures*

- Enforcement responses are executed in accordance with CCR section 6128.
- Civil penalty enforcement actions are executed in accordance with CCR section 6130.
- Notices of violation and cease and desist orders are issued by Inspectors at the time of inspection when violations are observed and documented.
- Compliance and enforcement actions are assigned unique identification numbers.
- All enforcement responses are reviewed by the Deputy Commissioner.
- Notices of proposed action (NOPAs) are tracked in an Excel worksheet that includes: case number, respondent, violations cited, issue date, responsible inspector, Enforcement Compliance Action Summary (ECAS) status, date mailed, date received, hearing request status, and date penalty paid.
- Violations subject to enforcement action are reviewed by the Deputy Commissioner. Upon approval, Inspectors draft NOPAs and submit copies to the Deputy for review before final approval by the Commissioner.

- NOPAs provide respondents with detailed information on alleged violations, proposed fine levels, and their right for opportunity to be heard.
- NOPAs are forwarded to the EBL no later than the time the notice is sent to the respondent.
- An opening ECAS is prepared for every civil penalty enforcement action and is submitted to the EBL at the time the NOPAs are issued. Upon case closure, a revised closing ECAS is sent to the EBL and is submitted to DPR HQ with Pesticide Regulatory Activities Monthly Reports.
- If penalty payment is not received and a hearing is not requested within 20 days of receipt of a NOPA, the Commissioner will issue a Notice of Decision to the respondent. If, after 30 days, the respondent fails to submit payment, a Demand Letter is issued. If payment is not received immediately thereafter, the case is referred to Placer County Revenue Services for collection. Payment plans are also available.

#### B. Planned Improvements

- Process and send NOPAs to respondents within 30 days of documented violations.
- Promptly issue Notices of Decision and Demand Letters when required.
- Utilize the Secure Access Website to retrieve and submit illness investigations.
- Train Level II Inspectors in all aspects of proper enforcement response processes and actions.
- Attend DPR trainings.
- Implement requirements of ENF Letter 31-11—submit draft NOPAs to DPR for review for priority episodes involving human health or other cases involving substantial adverse effects to human health.

#### C. Goals and Projected Deliverables

- Apply enforcement response regulations consistently and fairly.
- Provide progressive enforcement responses in accordance with CCR sections 6128 and 6130.
- Consider case referral to DPR for state action when warranted and appropriate.
- Provide consistent and progressive enforcement of CCR section 6970.
- Conduct thorough investigations.
- Complete investigations in a timely manner.
- Conduct and complete priority investigations in accordance with established cooperative agreement guidelines.
- Conduct and complete non-priority investigations within 120 days of receiving notification.
- Submit NOPAs and opening ECASs to EBL when NOPAs are sent to respondents.

- Submit closing ECASs to EBL and DPR HQ once a NOPA has been closed.
- Promptly notify EBL on status of all priority cases.
- Continue to participate in the Placer-Nevada County Environmental Crimes Task Force and interact with the Placer County District Attorney's office on pesticide related matters.

D. Measures of Success

- Improve quality of investigation procedures and investigation report writing.
- Improve efficiencies in processing and tracking NOPAs.
- Issue NOPAs to respondents within 30 days of documented violations.
- Fully train Level II Inspectors in all aspects of enforcement response processes and actions.