



**SAN BERNARDINO COUNTY  
AGRICULTURAL COMMISSIONER/SEALER  
2015 & 2016  
PESTICIDE ENFORCEMENT WORK PLAN**

**PESTICIDE USE ENFORCEMENT STAFF**

The Assistant Commissioner/Sealer will now be assigned to manage the PUE program.

Supervisor – Tom Stevenson (also supervises the Egg Quality Program).

Four full time PUE officers - Several are new officers who are training and one has just passed the PUE State Exam in the last few months. Two of the full-time PUE officers are fluent in Spanish. One is stationed in the Ontario field office and the other is in the San Bernardino main office.

The Assistant Commissioner and Supervisor positions work out of the main office in San Bernardino.

There are two brand new District Officers based in the Hesperia office who will eventually perform some PUE work in the Desert regions.

One office assistant, whose program responsibility is primarily PUE.

The officers stationed in the County's valley area are assigned headquarters records inspections, application monitoring, and investigative responsibilities based on geographical divisions. All officers answer public information requests, proctor Private Applicator Exams and process/issue Restricted Materials Permits and OpID's. The officers also rotate and share responsibilities for giving outreach training classes. We no longer proctor the Structural Pest Control Registered Applicator's Examination. Because the officers in different districts have different work schedules (varying days off), there is opportunity for them to work occasionally in other PUE districts for coverage purposes.

The Assistant Commissioner and Supervisor positions perform primarily management, administrative and supervisory duties. The Supervisor will occasionally perform some inspection and investigative work. Officer training is provided by DPR and the Assistant Commissioner and the Supervisor, both in the field and in the office. The Supervisor is now highly familiar with the program and all staff continue to receive training from DPR as needed.

For 2014, total licensed man-hours expended were 8,132 (up from 6,941 in 2013) and support hours expended were 2,200 (up from 1,899 in 2013).

In 2014, San Bernardino County registered the following:

300 agricultural pest control businesses (PCBs), up from 187  
66 pest control advisers (PCAs), down from 68  
8 farm labor contractors (FLCs), up from 6  
685 structural pest control companies (SPCOs), up from 674.

The Registration format and fee structure had not changed for many years, but we have modified it this past year for the Pest Control Advisers and Pest Control Pilots. We have now moved to a new online registration system through our county website for Pest Control Advisers and Pilots. There are so few of them that the time spent on registering them manually created an expense that could not be recouped by the \$10/\$5 fees that were being charged. As part of the new online system, the department no longer charges a registration fee for these categories as the person registering is now responsible for entering their own data into the system.

## **RESTRICTED MATERIALS PERMITS (RMPs)** **& OPERATOR IDENTIFICATION NUMBERS (OpID's)**

### **PERMIT EVALUATION PROCESS**

In 2014, there were 532 RMPs issued:

482 agricultural or "combo ag & non-ag", up from 316  
50 non-agricultural permits, up from 26

There were also 128 Operator ID's issued, up from 117.

During 2014, no agricultural permits were denied and only one non-agricultural permit was denied. About 15% of the RMPs were issued to pest control businesses with either an agricultural or maintenance gardener license.

The large increase in RMP's was due mainly to our efforts to have all property owners receive RMP's under their own name, with Assessor Parcel Numbers assigned as site numbers. Prior years saw pest control companies getting permits and listing other owners' properties incorrectly on the company permit. This made it difficult to track pesticide use accurately.

All corresponding DPR policies and regulations regarding permit conditions are followed during the issuance process.

Pest Control Business RMPs are issued only to qualified applicators with proper categories who are employed by these pest control businesses, which in turn are currently registered with our department. The officer in the district reviews all aspects of the requested permit and makes changes as needed. Pesticides, commodities, acreage, methods of treatment, notice of intent requirements, and permit conditions are all carefully discussed with the permittee at time of permit issuance to ensure completeness, accuracy, and an understanding of the requirements.

If a restricted material currently on a permit has not been used for more than a year, we remove that restricted material and the business must request to re-add it if they wish to use it again in the future. Part of this process includes a storage site inspection to determine if any of the restricted material previously noted on the permit is still in possession of the permittee. If the permittee still has possession of any of the restricted materials that were removed from the permit, the amount of product will be recorded. If the new permit does not re-add the product, another storage site inspection will be performed to verify that the original amount of product in possession is still present at the location. If any of the products were used without a permit, enforcement action will be taken. We continue to look closely at adding new restricted materials to permits and verify that the permittee understands all of the conditions if required.

A change was made to the Aluminum Phosphide permit condition in an effort to make the permit conditions more closely align with the changed label and a new 2<sup>nd</sup> Generation Rodenticides condition was added to match the status of the four newly restricted rodenticides. Additionally, we have added the San Bernardino County Schools Protection Ordinance as a permit condition for all production agriculture permits that allow treatment of sites that border a school and are placing the Honeybee / Apiary Protection condition on all permits that may allow use of chemicals labeled as harmful to bees.

All of the officers and the office assistant have received training in the CalAgPermits program and continue to gain experience and become more familiar and knowledgeable in the program. Assistance is provided by the Assistant Commissioner and Supervisor as needed.

Any permit applicant wanting to perform field fumigation must specifically request the fumigant to be added to their RMP; this ensures that all qualifications are met and conditions are addressed. No RMPs have been issued for field fumigation since the fall 2009 season however.

Our county requires any operator involved in production agriculture, utilizing employees working as handlers or field workers, to be certified as a private applicator in order to meet training qualifications, unless the employer hires a qualified trainer to perform the training. During 2014, 30 private applicators were certified (none through continuing education) and 8 failed the written examination. In order for a RMP to be issued to a grower, that grower must be certified;

otherwise, the grower must either authorize a Qualified person to sign the permit or an employee/family member must pass the PAC examination.

Our permit application process includes visitation of the site prior to issuance of fumigant permits for agricultural commodity and field crops due to the nature of the Work Plan and Final Permit Conditions requirements. San Bernardino County issues multi-year RMPs only to agricultural production Growers with perennial crops that treat their own sites, and does not issue multi-year RMPs to agricultural operations who hire outside pest control businesses.

All site permits must be signed by the actual grower/owner or their agent and must contain specific site ID information (APN's) that will allow us to more accurately track pesticide use on those specific sites through the Cal Ag program. Pest Control businesses may no longer list sites belonging to their clients on the pest control businesses permit. This eliminates the problem of having two different pest control businesses both spray the full yearly amount of any type of pesticide on the same property in the same year.

## **SITE MONITORING**

Site maps are reviewed and updated continually as needed. If the site is not new, the maps are reviewed with the permittee to see if any changes have occurred. We continue to require all permittees; including OpID's and schools to provide more detailed aerial site maps, such as those found on "Google Maps". These allow us to more clearly understand the surrounding land use of each site and enable us to better identify issues such as sensitive sites located next to agricultural production areas and the direction and impact of surface water runoff.

If the site is unfamiliar, site evaluation is still done in the field by the officer. Permit conditions are also reviewed and modified according to any changes at the site(s), such as a change in the acreage, crops, or adjacent properties.

San Bernardino County requires a Notice of Intent to be submitted at least 24 hours prior to all applications of restricted pesticides. In addition, a permit condition for Methyl Bromide (MBr) commodity fumigations requires a 72 hour NOI which increases our effectiveness at monitoring such applications, and enables us to respond quickly and effectively to questions and concerns from the public. PCBs who perform MBr applications are fully cooperative with this NOI period.

For all restricted agricultural pesticides, San Bernardino County received total of 1,370 Agricultural Notices of Intent during 2014. Our goal is to review close to 100% of these NOI's to ensure that permits listed on them are current and correct, sites are familiar and mapped, and any potential hazards are mitigated. Reviews are done both in the field and at the office.

DPR requires counties to perform Pre-App Site Inspections on a minimum of 5% of the number of agricultural NOIs received. We completed 132 Pre-Application Site Inspections during 2014, which is 9.6% of the total number of NOIs received.

We have previously tried to maintain a goal of 90-100% monitoring of agricultural applications of fumigants (aluminum phosphide, methyl bromide, metam sodium and chloropicrin) even if the

application takes place on the weekend. They are given a very high inspection priority in an attempt to prevent any exposure and/or drift episodes from occurring. Since implementing this procedure several years ago, no episodes involving aluminum phosphide, methyl bromide or metam sodium have occurred. However, we will no longer be able to maintain our monitoring goal because the number of Methyl Bromide commodity fumigations has recently increased at a rapid pace on the weekends.

In 2007, we implemented a policy of not issuing any RMPs for “shank-applied” chloropicrin, and we continue to follow this policy. The fumigant VOC regulations have had minimal effect in San Bernardino County because only the desert areas of the county would be impacted. The fields normally fumigated for pre-plant strawberries are located in the Chino/Ontario area, which is outside of the non-attainment area. No soil fumigations have occurred in our desert area for over 13 years and none have occurred in the Chino/Ontario for over five years. We require a 72-hour NOI prior to field fumigation and prior to commodity fumigation at grain mills to ensure that we can arrange an inspection.

Schools are considered very sensitive sites, so applications at or near schools are always given high priority. Soil fumigations near schools are only allowed when students are not present, such as on the weekends, and permit conditions (such as buffer zones and the required presence of an inspector) are strictly enforced. Several years ago we contacted every school district in the county to ensure awareness of pesticide use requirements. Surveillance around these sites has increased as our department has received a few complaints and inquiries from interest groups and concerned parents of students regarding pesticide use at schools and notification issues resulting from passage of the Healthy Schools Act and its later amendment to include pre-school facilities.

On request from the San Bernardino County Superintendent of Schools regarding potential agricultural use pesticide effects next to a future school, we adopted local regulations dealing with pesticide notification, application methods and application timing issues at agricultural crop sites adjacent to schools (see the previously mentioned School Ordinance permit conditions above). This department will continue our goal to give high importance to the monitoring of pesticide applications made at or near schools. We have not had any pesticide-related incidents at our schools involving children since adopting these procedures. We take enforcement very seriously regarding any violations that occur at school settings, including issuing warning letters to different school districts regarding minor pesticide use violations and fining several school districts in the last few years.

## **COMPLIANCE MONITORING**

### **INVESTIGATIONS**

In 2014, there were zero environmental effect investigation and only 4 miscellaneous “other” complaints:

There were 61 Human effects investigations. Included in the total were 17 involving structural pesticides, 5 involving agricultural pesticides and 37 involving anti-microbials (usually bleach). The remaining 2 investigations were listed as “human effects - other.”

The Assistant Commissioner and the Supervisor reviewed each investigation independently for completeness and accuracy, and to ensure that appropriate enforcement/compliance action is taken. We maintain computerized logs for tracking complaint investigations and for tracking human effects investigations generated from Doctor’s First Reports forwarded by DPR Worker Health & Safety and e-notices from the California Poison Control System, and public complaints. We have changed our policies as to how the investigations are handled, and, in 2014, all investigations fell within the allotted DPR timeframes of each non-priority investigation being completed within two months of receipt and each priority investigation within one month of receipt. All of the Officers conduct their own investigations, with the assistance of the bilingual Officers when necessary.

Education of industry and the public is another of our goals when conducting investigations. We attempt to ensure that the regulated person/business/agency understands applicable pesticide-related requirements and emphasize that we are a proactive information resource. We stress label requirements to homeowners, and distribute DPR compliance information to them when appropriate. With investigations involving employer/employees, some of the information that may be distributed includes PSIS leaflets, copies of worker safety regulations, sample training program and training record and application record, and compliance pamphlets. We developed a leaflet for the restaurant industry to help explain pesticide use requirements which could be used by the San Bernardino County Food Service Division of the County Health Department during their routine sanitation inspections.

We have been using the new SAW database system to receive notifications by e-mail of pesticide-related illnesses from the California Poison Control System. This notification process has greatly improved our ability to start illness investigations more quickly. However, some of the doctors’ initial reports are delayed by up to six months in reaching us and some reports are still being sent to us with no contact information, hindering our ability to perform the investigations quickly. The majority of these reports continue to involve individuals who are exposed to pool chemicals or who ingest bleach products.

## **INSPECTIONS**

The PUE Officers are fully licensed, trained, and performing inspections on their own. In 2014, we performed 961 inspections (compared to 767 in 2013).

This department has always fully cooperated with DPR in the area of oversight inspections and we look forward to and welcome DPR’s involvement in the future. We view DPR as a resource to improve our inspection quality and techniques. During 2014, we were able to perform oversight inspections on a “semi” monthly basis.

Appointments generally are not made to perform application inspections because it is important to observe the handlers working in their normal routine, without prior knowledge that someone will be observing. All of the application inspection forms are reviewed by the Supervisor to ensure completeness and to verify that the business is not performing pest control out of category or without being registered.

Headquarters and Business Records inspections can be scheduled because it is often difficult to meet the responsible person at their office, but officers have been instructed to perform these unannounced if possible because the law requires that the businesses have all paperwork and records ready, up to date and available when we request them. The officers have been instructed to continue to inspect as many headquarters as possible, with emphasis being placed on the Agricultural Pest Control locations.

Landscape maintenance companies performing pest control without possessing an agricultural pest control business license continue to be a problem. These companies have a financial advantage (money saved on licensing, registration and insurance) over licensed companies and from our experience have a much higher rate of worker safety violations. Our ongoing policy is to perform an inspection every time our field officers find an unmarked pest control vehicle or a maintenance gardener vehicle containing pest control equipment. We will also perform an inspection every time our officers encounter a pest control company whose business name is not familiar to us. If an actual pesticide application is not taking place at the time of observation, we will still make contact with the business for the purpose of explaining regulations and the requirements for licensing and registration.

We again this year received some indirect assistance from Los Angeles County due to notices they sent out to all the C-27 (landscape contractors) licensees based in Los Angeles, Orange, and San Bernardino Counties. The notices explained the possible need for a Maintenance Gardener Pest Control Business License. Unfortunately, we have still found numerous C-27 companies in violation, resulting in Civil Penalty Actions being taken.

Through our own previous focused activity involving the structural fumigation certification phase and other counties' focused activities on the aeration phase, our department realized that significant safety shortcuts were being taken by Branch 1 structural fumigation licensees and companies. These shortcuts potentially impact the safety of the public and of the company employees. For these reasons, an enforcement presence will continue to be maintained at a high level in these two problem areas of structural fumigation. With the new CAP, it is difficult to perform just an aeration inspection because of the timing involved so we have been performing more certification inspections.

We received 3,724 structural NOIs in 2014 (compared to 3,020 received in 2013). These numbers are still way down from the 2006 total of about 5,000 NOIs but as the housing market continues to rebound, the NOI's will continue to increase.

We performed 353 structural Branch 1, 2 & 3 inspections in 2014 as compared to 190 in 2013.

A continued goal for our county is to place more emphasis on inspecting growers who apply their own pesticides as opposed to those who hire outside companies to apply pesticides for them. Additionally, we will continue to put more effort into Certified Producers for permits, grower ID's and inspection.

## **2013 & 2014 STATISTICS**

On the agricultural pest control side, 80 of the 341 inspections were on property operators ( as compared to 59 of the 137 inspections in 2013). The remainder on pest control businesses. This low number is being addressed in an attempt to increase our property operator inspections in the coming year.

The non-compliance rate has been high during monitoring of pest control businesses (95 out of the total 169 violations noted); this is because of the many unlicensed maintenance gardener pest control (landscape maintenance) or C-27 contractor businesses observed applying pesticides. The majority of the non-compliances continued to be related to worker safety, with failure to wear eye/hand protection and failure to post emergency medical care being the majority of the total non-compliances. Most of the non-compliances for failure to wear eye/hand protection were documented during mix/loads and applications made from hand sprayers.

Additional inspections:

### **Commodity Fumigation Inspections**

14 inspections, with zero non-compliances, were performed in 2014.

11 inspections, with four non-compliances, were performed in 2013.

Commodity fumigations of grain mills with methyl bromide are almost always performed on Saturdays by the licensed pest control business and while we have always made every effort to inspect each fumigation, an increase in the number of fumigations of lumber required for the issuance of Phytosanitary certificates to Mexico has forced us to scale back this goal.

### **Field Worker Safety Inspections**

8 inspections, with 4 non-compliances, were performed in 2014.

8 inspections, with zero non-compliances, were performed in 2013.

### **Agricultural Headquarter/Employee Safety Inspections**

51 inspections, with 3 non-compliances, were performed in 2014.

76 inspections, with 15 non-compliances, were performed in 2013.

#### Agricultural Business Records Inspections

72 inspections, with 9 non-compliances, were performed in 2014.

51 inspections, with 11 non-compliances, were performed in 2013.

#### Structural Branch 1 Fumigation Inspections

209 inspections, with 22 non-compliances, were performed in 2014.

190 inspections, with 14 non-compliances, were performed in 2013.

When we perform Branch 1 inspections we seldom see violations during the application phase as our presence typically is a deterrent to the licensees from taking short cuts and committing violations. However, we do see a large number of violations during the certification phase. Almost all of these violation incidents resulted in civil penalties being proposed because of the potential hazard to the employees of the fumigation company, the public, and the environment.

#### Structural Branch 2 and 3 Pest Control Inspections

144 (129 and 15 respectively) inspections, with 55 non-compliances, were performed in 2014.

67 Branch 2 only (no Branch 3) inspections, with 24 non-compliances, were performed in 2013.

The number of non-compliances is primarily due to handlers failing to wear their personal protective equipment.

#### Structural Headquarter/Employee Safety Inspections

36 inspections, with 5 non-compliances, were performed in 2014.

19 inspections, with 6 non-compliances, were performed in 2013.

#### Structural Business Records Inspections

86 inspections, with 20 non-compliances, were performed in 2014.

50 inspections, with 9 non-compliances, were performed in 2013.

We are committed to continual monitoring of all inspection and violation trends, keeping abreast of any new regulations, and constantly reassessing our county's staffing needs, priorities and unanticipated workloads so that we can perform an optimum number of high quality inspections.

### **ENFORCEMENT RESPONSE**

When deciding whether a civil penalty should be proposed, we follow the Enforcement Response Regulations. Our goal is to continue to improve our timeliness and have the vast majority of actions proposed within a two-month period following documentation of the violations, with a significant number being proposed within a few weeks of the violations.

The decision to take enforcement action, the details (code sections and penalty amounts) of the action, and the written narrative was previously made only by the Assistant Commissioner in the past, with final approval given by the Commissioner before each Notice of Proposed Action is sent out. The Supervisor is now reviewing Violations as they are turned in and writing the Notice of Proposed Actions. We have hired a new Office Assistant to process all NOPAs which will allow them to be drafted in a consistent manner and DPR Enforcement Response Regulations & Guidelines are followed. Compliance is the overall goal, and all enforcement options are considered.

When we discover agricultural pest control businesses performing work outside their license categories, or unlicensed activity, a Cease and Desist Order is issued to those businesses.

In 2013, 79 Notice of Proposed Actions (26 structural and 53 agricultural) were issued and only one hearing was held.

In 2014, 68 Notice of Proposed Actions (37 structural and 31 agricultural) were issued and no hearings were held.

The Hearing Officer for the department previously was the Assistant Commissioner. She has since been promoted to Agricultural Commissioner/Sealer. Hearing Officers will now alternate between two different staff members who have been trained as Hearing Officers. The Advocate has traditionally only been the Deputy position, but this is changing to include the Program Supervisor as the PUE Deputy position is now being managed by the Assistant Commissioner/Sealer.

Unlicensed businesses and individuals will, at a minimum, receive warning letters from us if we find that they have been advertising pest control work as a result of telephone directory and on-line / newspaper reviews. Our policy for proposing civil penalties against unlicensed companies found actually performing work in the field is that all companies will receive a fine for violations of FAC §11701 unless the landscape contractor (C-27) exemption applies. The fine is usually placed in Class B near the minimum amount unless the business has been previously warned or fined.

Inspections that result in worker safety violation are now usually always assessed fines as there is a high potential for health effects occurring.

CCR Sections 6128 and 6130 (Enforcement Response Regulations) have decreased the number of Decision Reports written for Class "C" violations, the most minor category. The Deputy historically wrote all the Decision Reports as a matter of consistency and managerial control. In 2013 and 2014, both the Deputy and the Supervisor were involved in writing Decision Reports. The DPR EBL will be notified immediately when any respondent has requested a hearing, both in agricultural and structural civil penalty cases. The EBL will also be notified at the time our department refers any cases to other agencies for enforcement action, such as licensing action or prosecution.

Collection of the fines has been a minor problem, with fines from unlicensed pest control (landscape maintenance) businesses being the most difficult to collect. These problem accounts have been turned over to County Collection, with limited success. In the future, these accounts may be filed with the Clerk of the Superior Court in order to obtain a Final Judgment. Unpaid Structural fines continue to be turned over to the Structural Pest Control Board after the Hearing Deadline date has passed.

San Bernardino County also maintains regular contact with the local DPR Enforcement Branch and our assigned liaison in Anaheim for procedural guidance and situations unfamiliar to us. We also refer misbranding and unregistered pesticide issues to the DPR Product Compliance Branch.



BY: \_\_\_\_\_  
Assistant Agricultural Commissioner/Sealer

DATE: 2/20/15

**SAN BERNARDINO COUNTY  
AGRICULTURAL COMMISSIONER/SEALER  
2015 & 2016 MULTI-YEAR PESTICIDE ENFORCEMENT WORK PLAN**

**Department of Pesticide Regulation**

**Name: Jahan Motakef**

**Signature: \_\_\_\_\_**

**Title: Environmental Program manager I**

**Date: \_\_\_\_\_**

**San Bernardino County Agricultural Commissioner / Sealer**

**Name: Bobbie Willhite**

**Signature: \_\_\_\_\_**

**Title: San Bernardino County Agricultural Commissioner**

**Date: \_\_\_\_\_**