

SHASTA COUNTY DEPARTMENT OF AGRICULTURE PESTICIDE USE ENFORCEMENT WORKPLAN 2014-2016

I. County Resources

Staff

The Shasta County Department of Agriculture typically allocates 23% of its staff hours annually to the Pesticide Use Enforcement program. The Staff Classifications that dedicate hours to the program include:

- Deputy Agricultural Commissioner/Sealer,
- Agricultural & Standards Investigator III (four positions),
- Agricultural & Standards Investigator I (one positions),
- Agricultural & Standards Program Associate II,
- Agricultural & Program Assistant II,
- Account Auditor II,
- Administrative Secretary II, and
- Typist Clerk III

Training

Shasta County takes advantage of the investigative training provided by DPR. This includes the written policies and procedures provided in the manuals developed by DPR. Such written materials include:

- Pesticide Use Enforcement Program Standards Compendiums.
- Pesticide Enforcement Investigative Sampling Manual.
- Pesticide Use Enforcement Program Standards Advanced Investigation Procedures manual.
- Hearing Officer Workbook.

Continued training opportunities for new, as well as experienced Investigators are encouraged and supported by the department. All professional staff attend the annual in-house Permit Issuance Training, Headquarter Records Inspection Training and various industry-sponsored trainings held in the area including; the PAPA Conferences, Vegetation Management workshops, and PCOC Safety Day.

Goals

- To continue to train and update support staff on all pesticide regulatory activities including the use of CalAgPermits, notices of intent, in house pesticide notification to beekeepers, etc.
- To increase outreach activities for pest control businesses, focusing on Maintenance Gardeners and their employees, to increase compliance with laws and regulations.

II. Restricted Materials Permitting

A. Permit Evaluation and Issuance

Background

Permits for restricted materials (RMs) are issued to the operator of the property to be treated or the operator's authorized representative. The permittee or the authorized representative, as required in California Code of Regulations (CCR3) Section 6420, signs the permit. A letter of authorization is required for issuance or signature of other than the operator of the property. The permits are generally issued for a period of no more than one year, and typically expire on December 31st in the year of issuance. Permits for Forest/Timber, a permanent crop, may be issued for two years. The permits are issued in a format approved by the Department of Pesticide Regulation (DPR).

Permits undergo a thorough evaluation at the time of issuance. The permit is reviewed in an effort to determine if there are safety concerns, such as the proximity to sensitive sites, or if substantial adverse environmental impacts could occur. This evaluation is aided by the use of various tools including information obtained from the permit applicant, staff's knowledge of the application sites, potential impacts of the restricted materials (RM), and the use of the mapping component of CalAgPermits. Using these tools, if a feasible alternative is available it is considered in lieu of the requested RM. A permit is ultimately issued with conditions or denied based upon materials requested by the permittee, the local environment (including the location of sensitive sites), the compliance history of the applicant, and the comprehensive review by licensed staff. If a permit is denied, the applicant is given due process in the form of a Notice of Grounds for Refusal and Opportunity to be Heard.

If alternatives to a RM are not identified, mitigation measures referred to as permit conditions are incorporated into the final permit. The Shasta County Department of Agriculture (SDA) has developed a standard restricted materials permit condition sheet that is completed for every permit applicant. The condition sheet outlines general precautionary steps to take when using pesticides. Special consideration is taken for agricultural sites located within ¼ mile from a school. Generally allowing a RM to be applied only when school is not in session. It also includes several specific conditions that apply only to certain categories of pesticides, such as insecticides, and are included on permits listing those types of materials. Several pesticides identified as those of particular concern, such as Acrolein, aluminum phosphide, 6800(a) pesticides in GWPAs, and all agricultural use fumigants have their own unique condition sheet that outlines mitigating measures that applicators must abide by.

Staff Investigators may also incorporate additional mitigation measures or conditions based on the particular request. These additional requirements can be based on knowledge of local environmental features, settings or site conditions, pest management guidelines, knowledge of restricted materials, pesticide information series, application method, or other regulatory requirements.

As required by both regulation and SDA permit conditions, a Notice of Intent (NOI) is to be submitted 24-hours before the application of any restricted material takes place. A 48 hour NOI is required for all agricultural use of a fumigant. The NOI may be submitted by phone, fax, in person, or using CalAgPermits, and is recorded on the Shasta County NOI log. Appropriately licensed staff review the NOI and either accept or deny its approval. If it is not approved, staff are required to contact the permittee to notify them of its denial or to obtain additional information to reconsider the denial. Each NOI must be reviewed and initialed by the licensed staff to verify that it has been approved and is in compliance with all applicable requirements.

NOIs submitted less than 24-hours prior to the intended start of application may be approved, on a case by case basis, by the Agricultural Commissioner or appropriately licensed staff, when it is determined that due to the nature of the commodity or pest problem, effective control cannot be obtained if the 24 hour period is not waived or it is determined that a 24-hour notice is not necessary to adequately evaluate the intended application.

The following information and/or handouts may be reviewed with permittee at time of permit issuance:

- In-house pesticide use requirements
- PUR forms and instructions
- CalAgPermits online use reporting and instructions.
- Restricted material permit conditions
- Notice of intent log and instructions
- California restricted materials list
- DPR Compliance Assistance handouts 1-8 in English and Spanish
- Application specific information requirements
- PSIS A or N 1-11, in English and/or Spanish
- Employee pesticide training program and forms
- Respiratory protection information

Goal

The goal of the SDA is to comply with all requirements applicable to the issuance of RM permits in order to ensure their proper and prompt issuance to pesticide users and to ensure the safety and protection of Shasta County's citizens and environment.

Deliverables

- Comply with all laws, regulations, and Department of Pesticide Regulation (DPR) policies and guidelines for issuing RM permits.
- Have only properly licensed staff issue/deny RM permits.
- Evaluate every RM permit for compliance with all applicable requirements.

- During the RM Permit evaluation process identify all sensitive sites that could be affected by the use of pesticides.
- Condition all RM permits with applicable mitigation measures.
- Document the issuance or denial of all RM permits on county log.
- Record all NOIs.
- Have licensed staff approve, modify, or deny all NOIs.
- Provide permit issuance training to all licensed PUE staff.
- Deputy will review RM permits throughout the year to assure that the SDA and DPR quality requirements are being met. Any identified deficiencies will be noted, reviewed with staff, and general problems will be discussed during staff training.

Measures of Success

The success of the Shasta County Department of Agriculture's RM permitting process will be documented by the review of RM permits listed above. Each permit will be reviewed for requirements, including but not limited to: map quality/ accuracy, certification status (current PAC application on file), site evaluation, general and specific permit conditions forms signed. In addition, an external evaluation is conducted annually by the Enforcement Branch Liaison (EBL). This evaluation may include a review of RM permits, Pesticide Regulatory Activities Monthly Report (PRAMAR) data, and the NOI log. The SDA Deputy will review and discuss the evaluation with the EBL and then review the evaluation with the Agricultural Commissioner prior to discussing it with SDA PUE staff.

III. Site Monitoring Plan

Licensed staff will monitor RM permits and NOIs as required in CCR Section 6436. A minimum of five-percent of the NOIs received by the SDA will be inspected prior to the application. Monitoring will include a review of all NOIs received to determine which fields should be checked prior to application. Consideration will be given to those NOIs for highly toxic materials, especially fumigants, environmental concerns such as endangered species and groundwater issues, safety issues such as proximity to schools or other sensitive sites, and Section-18 applications, etc.

The compliance history of the applicant will also be considered. Permittees with documented non-compliance(s) on inspection reports in the previous year will be monitored with greater frequency. Copies of all inspections and compliance actions will be maintained in the permittee's files and will be used by staff to evaluate the need for increased monitoring.

All non-agriculture permit holders are to be inspected at least once a year if they apply pesticides.

The department receives pesticide use reports from growers and businesses online. In 2013-2014, over 60% of the monthly summary use reports were submitted electronically thru CalAgPermits.

Goal

The goal of site monitoring is to examine sites scheduled to be treated in an effort to determine compliance with applicable laws and regulations and site-specific permit conditions. The prioritization of the site inspections must take into consideration the circumstances of the application. Those circumstances include, but are not limited to, the toxicity of the material, the application location, local environmental conditions surrounding the site, safety considerations, and the applicator's compliance history.

The goal for electronic use report submission is to have 90% of the use reported by growers and businesses submitted on-line.

Deliverables

- Perform pre-application site inspections on a minimum of 5% of the NOIs submitted.
- The Deputy will keep PUE staff apprised of permittees who have recorded non-compliances related to RM use in the previous year in order to help staff prioritize inspections.
- Prioritize inspections based on the following criteria:
 - Fumigation NOIs receive the highest priority;
 - Pre-application site inspections are to be performed on all RM applications adjacent to a school site;
 - Pre-application site inspections will be performed on at least 50% of the permittees who are listed as having a RM related non-compliance during the course of the last year;
 - Pre-application site inspections will be performed throughout the county in order to assure that all types of RM applications are adequately monitored.
- Perform outreach to enable and encourage pesticide users to submit pesticide use reports electronically.

Measures of Success

Success will be achieved by meeting the requirement to conduct pre-application site inspections on at least 5% of the NOIs received and verifying that the prioritization of inspections was implemented. Success will also be based on verifying that inspections were carried out in all areas of the county on a wide variety of crops and on farms and ranches of all sizes.

Each year the department should increase the percent of pesticide user reports submitted electronically, to reach the goal of 90%.

IV. Compliance Monitoring

The department's Pesticide Regulatory Inspection reports, completed in FY 2013-2014, were reviewed in an effort to determine the overall compliance rate and to identify any areas where non-compliances were consistently documented.

FY 2013-14 Number of Pesticide Regulatory Inspections completed, by type

	Fumigations	Mix Load	Applications	Records	HQ/ Employee	FWS	TOTAL
Total Goal	12	16	70	21	35	5	182
Total Completed	13	20	56	29	44	5	197
Percent of Goal	108%	125%	80%	138 %	125%	100%	108%

Goal

The goal of the SDA's pesticide regulatory program is to maintain the high compliance rate in those areas of exceptional compliance and to increase the rate of compliance in all other areas, but especially in the Pest Control Business application inspections and Grower/Property Operator Headquarter Inspections.

Deliverables

Based on our inspection program evaluation, the following inspection goals were determined for the term of this Work Plan (2015-2016, 2016-2017, and 2017-2018):

PRE-APPLICATION	5%
MIX & LOAD	
• PROPERTY OPERATOR	16
• BUSINESS	16
HEADQUARTERS EMPLOYEE SAFETY	
• PROPERTY OPERATOR	10
• BUSINESS	15
• STRUCTURAL	10
APPLICATION	
• GROWERS	25
• BUSINESS	32
STRUCTURAL	

• BRANCH I	3
• BRANCH 2	13
COMMODITY	2
FIELD FUMIGATION	5
FIELD WORKER SAFETY	5
BUSINESS RECORDS	
• PEST CONTROL	20
• DEALER	2
• ADVISER	2

- Maintain the level of inspection for other inspections to the level completed in FY13-14. The figures may change during the course of the Workplan depending on the types of applications that actually take place, staffing shortages, or emergency situations.
- Conduct agricultural and urban application inspections during non-business hours and weekends by scheduling staff to perform surveillance patrols during these times.
- Modify all applicable training provided by the department to emphasize the areas of greatest non-compliance.
- Evaluate all inspection reports for compliance and develop and maintain spreadsheets recording all code sections violated.
- Use these records annually to modify and direct training into those areas that have generated the greatest number of violations and/or the most serious violations.
- Outreach to maintenance gardening pest control businesses is a priority. Staff has and will continue to approach and provide information materials to uncertified/unlicensed persons involved in maintenance gardening who apply pesticides.

Measures of Success

SDA will continue to address non-compliances through our education and outreach activities to those industries that are experiencing the violations; specifically the Pest Control Businesses. The success of the SDA's Compliance Inspection Plan will be determined by several measures, including the completion of the inspection plan contained in the Deliverables Section above, focusing training on the areas that produce the most non-compliances, and in decreasing the number of non-compliances in the areas with the lowest compliance rates, PCB application inspections and Grower/Property Operator Headquarter Inspections.

In the event of an inspection involving persons who do not speak English or speak English as a second language, the Department works with Spanish and Mien translators in the Public Health

Department and has access to translation services through Shasta County's Support Services Department.

The numbers of inspections listed in the Compliance Inspection Plan are tracked on a monthly basis and may be modified, depending upon the number of non-compliances documented or the enforcement actions taken for violations in accordance with the Enforcement Response Policy/Regulations.

Investigation Response and Reporting

Goal

The goal of the program is to complete all investigations in a timely manner with accurate, complete, and supportive information in conformance with all applicable policies, procedures, and guidelines.

Deliverables

- Initiation of a Priority Investigation immediately, keeping the EBL fully informed of the status of the investigation and provide a thorough report upon completion.
- All other, non-priority investigations will be completed in a timely manner.
- Utilize the SAWs account for retrieval of PIRs and submitting PEIRs and Investigation Reports.

Measures of Success

- Success will be measured by the timeliness of submission of priority investigations, non-priority investigations, and DPR's annual evaluation by the EBL.

Enforcement Response Evaluation

Background

The Deputy Agricultural Commissioner reviews all inspection and investigation reports. Those that contain a non-compliance are assessed to determine if additional action is warranted. If the Deputy determines that such action is needed, he will meet with the Investigator and determine a preliminary course of action based on the pending enforcement response regulations and other applicable policies or requirements. Each inspection and investigation is considered for progressive action as outlined in the enforcement response regulations.

When an Administrative Civil Penalty is taken the fine guidelines are followed or any other applicable statute or regulation, as are the timelines for due process. (CCR3 Section 6130 or Title 16 Section 1922)

Compliance and enforcement actions are to be completed and submitted to the Deputy for review as outlined in the timetable listed in the "Deliverables" section below. In most cases, actions should be delivered to the respondent with 45-days of the inspection or completion of the investigation.

Goals

The goal of the Enforcement Response plan is to complete a thorough investigation and provide an appropriate response in a timely manner, which will result in future compliance by the respondent. The actions must be consistent with DPR guidelines, be uniformly applied, and fairly enforced to maintain the confidence of the regulated industry and the public.

Deliverables

- Consideration of all appropriate enforcement options
 - Proper application of the Enforcement Response regulations found in CCR 6128 and future regulations.
 - Proper application of Fine Guidelines.
- Cases, especially those "rejected" for further action, will be reviewed with pesticide regulatory staff during training sessions.

Additional Activities

The Shasta County Department of Agriculture strives to ensure that the regulated community is informed of and understands the compliance standards as they relate to the use of pesticides. Towards this end, outreach and education activities remain fundamental elements of Shasta County's pesticide enforcement program. The Department will continue to provide and participate in ongoing training and take advantage of new opportunities as they become available.

The department will continue to prepare and distribute information and training to four distinct industry segments; school districts, structural pest control businesses, pest control operators, and growers with emphasis on the maintenance gardener pest control businesses. The department will provide laws and regulations training to pest control business owners, foremen of PCB field crews, and employees, and continue field outreach activities

The department sponsors and participates in multiple training seminars for growers, schools and licensees. To ensure information reaches targeted communities, the Department has worked with Spanish and Mien translators in the Public Health Department. Department Investigators and management staff also participate as presenters at training opportunities sponsored by industry and other governmental agencies.

PRIORITIES AND OTHER PESTICIDE REGULATORY ACTIVITIES

- A. Non-Fumigant VOC Regulation Compliance (San Joaquin Valley), when regulations are final: Does not apply to Shasta County
- B. Compliance with Soil Fumigation Phase II labeling: Shasta County Agriculture Commissioner's staff will attend DPR sponsored training sessions for the Soil Fumigant Training. These applications have always been high priority. Shasta County Agriculture Commissioner's staff monitors as many soil fumigations as possible with either a pre-application site or use monitoring inspection. Shasta County Agriculture Commissioner works closely with CDPR, U.S. EPA, registrants and applicators to facilitate the implementation to the Phase II soil fumigant training in 2013.
- C. Chloropicrin mitigation: Measures will be implemented. Shasta County Agriculture Commissioner will address as applicable
- D. Structural inspection activity Branches 1, 2 & 3: Shasta County Agriculture Commissioner's staff will perform Branch 1 applications inspections when possible. Shasta County Agriculture Commissioner's staff will emphasize the 2012 surface water regulation.
- 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: Shasta County Agriculture Commissioner has not been asked by any agency to assist with water quality issues, but is willing to collaborate if needed.
- F. Staff Training: The county work plan will be reviewed at regular staff meetings and staff will be focused to address goals.
- G. Compliance with pesticide use at schools: During routine headquarters inspection of pest control businesses, Shasta County Agriculture Commissioner's staff will identify any pesticide usage at schools and verify compliance with school pesticide use reporting and employee handler training requirements.
- H. Secured Web Access (SAW) for pilot counties: Shasta County Agriculture Commissioner has a SAW account and submits all illness investigations through SAW.

- I. Compliance with Ground Water Regulations (i.e., participation with DPR's Environmental Monitoring Branch on related studies): as with E, above, Shasta County Agriculture Commissioner has not been approached to do this work, but would do so if requested.
- J. Chilean Fruit Air Monitoring (CFAM) and other commodity fumigation focused activities: Does not apply to Shasta County.
- K. Regulatory outreach and education: Shasta County Agriculture Commissioner is able to reach the majority of county growers via grower's meetings and during permit season.
- L. Investigative Review: Shasta County Agriculture Commissioner meets with the EBL to discuss possible enforcement action, including referral to DPR for state action.
- M. Compliance with Non-Ag Surface Water Regulations: Shasta County Agriculture Commissioner has incorporated this into the compliance monitoring scheme. Goals for this activity are described above. Surface water regulations will be emphasized at appropriate use monitoring inspections and headquarters inspections.
- N. Federal rodenticide regulation compliance: will be ensured by requiring certification and enforcement of use restrictions. This is also evolving, as second generation rodenticides are being evaluated by U.S. EPA. Second generation bait requirements will be addressed as applicable.
- O. Focused inspections on employers with employees: At least 25% of all headquarters inspections, as identified by use report data, will be targeted at employers who have employee handlers who handle pesticides.
- P. DPR reporting for report of loss related to bee kills: Shasta County Agriculture Commissioner will contact DPR in the event a bee loss is reported.
- Q. Collaboration with DPR in addressing U.S. EPA activities or requests: Should this arise, Shasta County Agriculture Commissioner will coordinate efforts with DPR and U.S. EPA.