



County of Tuolumne

Gary W. Stockel

Agricultural Commissioner • Weights & Measures
Animal Control • Air Pollution Control
2 South Green Street
Sonora, CA 95370
Phone: (209) 533-5691 Fax (209) 533-5520

*Agricultural Commissioner
Director of Weights & Measures
Director of Animal Control
Air Pollution Control Officer*

Tuolumne County Enforcement Work Plan Calendar Years 2016 – 2018

Background

Only 14% of the total land area of Tuolumne County, approximately 202,000 acres, is used for agriculture. The majority of land, 78%, is federally owned land (US Forest Service, Yosemite National Park, and BLM). Tuolumne County's agriculture consists mainly of livestock production, rangeland, and timber production. Only 1.4% of its agriculture is made up of fruit, vegetable, field crops, and nursery production. Much of this 1.4% is grown without pesticides or with reduced pesticide use. As such, pesticide use is limited and in most cases consists of herbicide and rodenticide applications. For this reason, Tuolumne County prepares a three year work plan and performance evaluations are conducted by the Enforcement Branch Liaison (EBL) on a three year basis. Previous work plan evaluations noted no deficiencies.

Pesticide Use Enforcement Personnel Resources

The Tuolumne County Agricultural Commissioner's staff currently consists of:

- ❖ 1 Agricultural Commissioner
- ❖ 1 Deputy Agricultural Commissioner
- ❖ 2 Senior Agricultural Biologists
- ❖ 1 Administrative Technician

All staff participates in the Pesticide Use Enforcement Program to some degree. The Agricultural Commissioner and the Deputy Agricultural Commissioner provides supervision for the program. Both Senior Agricultural Biologists perform inspections as well as the Deputy Agricultural Commissioner. All issue restricted materials permits and operator identification numbers, provide training to growers and applicators and conduct investigations. The Administrative Technician is responsible for PUR data entry and general administrative support. Total department personnel hours devoted to the program average 1540 hours annually; equivalent to .75 FTE.

During the last work plan period (2013-2015), the Department added a Deputy Agricultural Commissioner and with that, some of the supervision shifted from the Commissioner to the Deputy. With this position being filled, it is hoped that we will be able to conduct more inspections in the field. No further positions have

been filled. The Department will continue to devote .75 FTE for the 2016-20118 work plan period.

Restricted Material Permitting

Current Status – Permit Evaluation

- ❖ Approximately 25 restricted material permits and 75 operator identification numbers are issued annually.
- ❖ Restricted Material Permits are valid for one year, expiring at the end of the calendar year (December 31) in which they are issued.
- ❖ Majority of the restricted material permits are issued for phenoxy herbicides and second-generation rodenticides.
- ❖ Soil fumigations have not occurred in Tuolumne County. Should a request for the use of a soil fumigant be submitted, the department will ensure compliance with permitting, conditions and the most current policy governing field fumigations.
- ❖ Restricted material permits are only approved and issued by licensed personnel. All personnel issuing restricted material permit & operator identification numbers possess current licenses in Pesticide Regulation and Investigation and Environmental Monitoring.
- ❖ Permittee is required to pass private or qualified applicator certification examination or, in the case of renewals, to complete the required continuing education hours as an option.
- ❖ County administers private applicator certification examination and issues permits by appointment on an individual basis.
- ❖ Restricted material permit / Operator Identification Number issuance and review takes approximately one hour.
- ❖ Restricted Material Permit sites are evaluated prior to issuance to determine potential adverse environmental impacts or health effects based on:
 - Maps submitted by the applicant
 - Review of adjacent and surrounding properties
 - Discussion with the applicant
 - Staff knowledge of the local area and cropping systems
 - PRESCRIBE date base
- ❖ Restricted material permits and any subsequent amendments are entered into the CalAgPermits program and printed out for signature.
- ❖ Restricted material permits / Operator Identification Numbers are issued to the operator of the property or an authorized representative (an employee, farm management firm, Pest Control Advisor (PCA), non-ag permits can be issued to a Pest Control Business).
- ❖ A Letter of Authorization is required for issuance to or signature of other than the operator of the property. All letters are valid until revoked.
- ❖ All restricted material permits & Operator identification numbers are logged into two Excel Spreadsheets: one to track RMP/OIN issued and one for tracking submittal of Pesticide Use Reports (PUR).

- ❖ All agricultural permits are site specific. Maps are required showing the site locations listed on the permit. Homes, wells, adjacent crops and environment and sensitive areas are identified on maps. Sensitive sites include areas adjacent to federal lands, locations at the Ag/urban interface, waterways and endangered species habitat.
- ❖ Sites are designated by a four digit number associated with the applicant's permit number and a letter signifying the commodity produced. Site locations are identified on the map by their number. Some forestry permit sites are designated with unique site identification numbers that are provided by the applicants.
- ❖ Handouts reviewed with permittee at the time of issuance:
 - Tuolumne County pesticide use requirements.
 - Restricted materials permit conditions (located in CalAgPermits).
 - Application and commodity specific information requirements.
 - Notice of Intent form and instructions.
 - Pesticide Use Report forms and instructions. Online use reporting through the CalAgPermits system is encouraged and individual instructions and training are provided.
 - California Restricted materials list.
 - Pesticide Safety Information Series (PSIS) A or N (revised)
 - Employee pesticide safety training forms.
 - Personal Protective Equipment (PPE) and Respiratory Protection requirements.
 - Endangered Species Information
 - Copy of Pesticide Special Local Need (SLN) if applicable.
 - List of beekeepers adjacent to the property to be treated if applicable.
- ❖ The county offers a minimum of two 3.0 hours of continuing education classes each calendar year. Topics include laws and regulations review and update, identification of important local weed and vertebrate pests, use of appropriate herbicides and rodenticides, and calibration of equipment. Over the last three years attendance has ranged from 25 to 55 participants per class.
- ❖ For renewals, prior year permit files are reviewed for Pesticide Use Reports (PUR) submitted, non-compliances and inspections to determine any potential problem areas.
- ❖ Notices of Intent (NOI) to apply pesticides –
 - 2013 – 7 NOI
 - 2014 – 11 NOI
 - 2015 – 15 NOI
- ❖ 24 hour Notices of Intent are required.
- ❖ NOI's are accepted by telephone to the main phone line, fax or in person and are monitored between the hours of 8am to 5pm, Monday to Friday. After hour NOIs are picked up by voice mail which can be accessed 24 hours/7 days a week.
- ❖ NOIs are logged into an Excel Spreadsheet for tracking purposes.
- ❖ Licensed staff reviews the NOIs for consistency with the Restricted Materials Permit and to evaluate any hazards of the proposed application.

Planned Improvements

- ❖ The quality of the site maps have improved since CalAgPermits has come into being. We are starting to include well locations and endangered species locations on all site maps.
- ❖ CalAgPermits continues to evolve with improvements being made and the transfer of the maintenance of the program to CaliCo. With the advent of CalPEATS, we will have the ability to incorporate the permit information into the inspection tracking system making a more complete, robust system for tracking permits and inspections.
- ❖ Staff will continue to focus on evaluating the use of rodenticide by Restricted Material Permit and Operator Identification Number holders to determine the need to issue permits for the second-generation anticoagulants that have become restricted materials.
- ❖ Continue the encouragement of using the online pesticide use report system.
- ❖ Review submittal of use reports at the time of Restricted Materials Permit/Operator Identification Number issuance with each applicant. Obtaining PUR's in a timely manner has been a consistent issue.
- ❖ Continue to use CalAgPermits for NOI's –
- ❖ Tuolumne County issues approximately 25 Restricted Material Permits annually. We will continue to evaluate the need for a Restricted Materials Permit annually when the permittee comes into renew.

Goals and Projected Deliverables

- ❖ Annually review all Restricted Material Permits and Operator Identification Numbers for correct site maps that accurately depict surrounding environmental and sensitive areas including wells and endangered species locations. That Restricted Material Permits are only issued when needed and only for needed restricted pesticides.
- ❖ Provide continued training to staff to ensure that the annual Restricted Materials Permit and Operator Identification Numbers issuance is comprehensive and efficient.
- ❖ Provide instruction and guidance to permittee and OIN users for the on-line submittal of Pesticide Use Reports (PUR) through CalAgPermits program.
- ❖ Provide information on new laws and regulations, label changes, restricted material status and any other changes that occur to Pesticide Use Enforcement.

Measures of Success

- ❖ Change in the number of operators submitting PUR on-line
- ❖ Change in the number of restricted materials permits converted to OINs.
- ❖ Change in the number of delinquent PURs.

Current Status – Site Monitoring Plan

- ❖ There are approximately 250 annual sites issued.
- ❖ Majority of NOIs are for restricted materials used on the following crops:
 - Phenoxy herbicide for forage crops during January – March.
 - Phenoxy herbicide for noxious weed control during January – May.
 - Vikane for structural fumigation.
 - Second-generation rodenticides for poultry house protection.
- ❖ Tuolumne County has no ground water protection area(s) (GWPA)
- ❖ Tuolumne County has one school within ¼ mile of a production site. We are currently mapping all schools and hopefully daycares within the county.
- ❖ Sites are evaluated based on:
 - Hazard of the Pesticide
 - Impacts to Apiaries
 - Applications near roads and residences
 - Environmental conditions and sensitive sites
 - General Weather Trends
 - Surrounding cropping trends
 - Employee handlers
 - Compliance history
- ❖ Due to the relatively few Restricted Material applications that occur in Tuolumne County, staff strives to conduct as many pre-application inspections as time allows. During the time period of the last work plan – 5% of the applications were inspected.

Planned Improvement

- ❖ Increase efforts to obtain recommendations to better evaluate risks associated with proposed applications.
- ❖ Better coordinate site monitoring with staff, allowing for more pre-application inspections.
- ❖ Increase inspections of forestry applications, especially if Phenoxy herbicides are being used.

Goals and Project Deliverables

- ❖ Conduct pre-application inspections at or above 5% range.
- ❖ Assure that new sites are adequately evaluated and monitored.
- ❖ Communicate priorities to the staff and train if necessary in order to achieve these goals.

Measures of Success

- ❖ Number of pre-application inspections occurring.
- ❖ Number of sites on Restricted Materials Permits evaluated.
- ❖ Number of recommendations received and reviewed.

- ❖ Watch for trends in application types and follow up with inspections if noticing a trend. (i.e. – bedbug fumigations).

Compliance Monitoring

Tuolumne County's Compliance Monitoring program was improved over our last work plan as the biologist who is the main PUE person gained more competence and confidence in the program. The second biologist became better trained and was able to complete inspections on his own. As of 2015, the Department hired a Deputy Agricultural Commission. CalAgPermits continues to be a time intensive program, with the changes within the program challenging the biologists and the Deputy. The new inspection tracking program – CalPEATS – will be coming into use during this workplan. It is hoped that CalPEATS will be a comprehensive inspection program that will make doing inspections easier and be able to easily tie with CalAgPermits so that when doing inspections, the inspector will be able to see if the person/business is current, licensed and registered in the county.

Current Status Comprehensive Inspection Plan

During the 2013 – 2015 work plan period the following compliance inspections were conducted:

2013 – 14
2014 – 7
2015 – 10

The number of non-compliances found during the 2013 – 2015 work plan:

2013 - 11
2014 - 6
2015 – 3

- ❖ Inspections were performed by two licensed biologists and trained staff: 2 Senior Agricultural Biologists.
- ❖ Majority of applications are for non-restricted materials.
- ❖ The majority of inspections are conducted on restricted material applications of phenoxy herbicides/paraquat and second-generation anti-coagulants for rodent control.
- ❖ Monitor use of rodenticides to ensure compliance with the new status of anti-coagulants as restricted materials and US-EPA label changes.
- ❖ Targeted inspections are:
 - Restricted Materials Applied
 - Sensitive and High Profile sites
 - Compliance history
 - Employee applications
 - Location of application
- ❖ Frequencies of Headquarter inspection depend upon the level of compliance. PCO Business Headquarter, Dealer, and PCA inspections are performed at least once every two years and Grower employee Headquarter inspections are performed annually.

Planned Improvement

- ❖ Implement seasonal surveillance program to locate and inspect OIN applications of non-restricted herbicides in pasture/rangeland and fungicides and insecticides on wine grapes, apples and stone fruits.
- ❖ Attempt to increase structural and Landscape Gardener inspections including evaluation of compliance with Non-Ag Surface Water Regulations.
- ❖ Consistent review of inspection forms for completeness and accuracy.
- ❖ Improve tracking systems for inspections and non-compliances to ensure accurate reporting on PRAMR.
- ❖ Increase the number of Non-Ag Permit inspections performed.

Goals and Deliverables

- ❖ Implement a comprehensive compliance inspection program to ensure that pesticide uses are adequately monitored throughout the county.
- ❖ Maintain frequency of inspections for headquarters and dealers.
- ❖ Provide training to staff on pesticide inspection form completion focusing on common mistakes found and on understanding the criteria evaluated.
- ❖ Work with our Enforcement Branch Liaison to provide oversight monitoring.
- ❖ Establish a comprehensive tracking system of inspections, non-compliances, grower PUR's and investigations to ensure follow-up and accurate reporting.

Measures of Success

- ❖ Number and kinds of inspections performed.
- ❖ Number and kinds of non-compliances found.
- ❖ Number and kinds of errors found on inspection forms.
- ❖ Evaluation of tracking system for accuracy of data compiled and ability to identify required follow-up.

III. Enforcement Response

Current Status

- ❖ During the 2013 – 2015 work plan period 10 investigations were conducted: 4 Human Effects – Antimicrobial, 3 Human Effects – Other, and 1 Environmental Effects. 9 of the Human Effect Investigations involved homeowner's misuse of pesticides and were not related to agriculture, industrial or structural use.
- ❖ All pesticide – related complaints and reports of illness that are received by the office are investigated. Investigations are conducted by trained staff.

- ❖ An investigative report is completed for each pesticide – related incident.
- ❖ All investigation and complaints reports are reviewed by both the Deputy Agricultural Commissioner and the Commissioner.
- ❖ All of the investigation reports, once completed, are submitted to CDPR.
- ❖ During the 2013 – 2015 workplan period there were 2 Warning Letters or Notices of Violation issued.
- ❖ All actions are discussed with the Deputy and Commissioner prior to implementation.
- ❖ Compliant and enforcement actions are prepared by licensed staff.
- ❖ The Enforcement Response Regulations, as outlined in 3CCR, section 6128 will be followed to determine the most appropriate action when violations are identified.
- ❖ For civil penalty actions taken by the Commissioner, 3CCR, section 6130 will be followed.
- ❖ Decision Reports are written in accordance with the Enforcement Response Regulations.
- ❖ All NOPA's provide respondents with detailed information on alleged violations, proposed fine level, their right for an opportunity to be heard, and the "Preparing for your Administrative Hearing" pamphlet.
- ❖ Copies of inspection reports and actions are maintained in Operator Identification Number/Restricted Materials/ Permit or Business files.
- ❖ Educational Seminars and outreach to the regulated community include updates on the Enforcement Response Regulations.

Planned Improvement

- ❖ Arrange for staff to continue to receive CDPR training related to inspections, investigations and enforcement.
- ❖ Take an aggressive enforcement approach to habitual pesticide use report violations.
- ❖ Improve the internal tracking systems for investigations and enforcement actions.
- ❖ Ensure timely report completion and enforcement action initiation.

Goals and deliverables

- ❖ Apply the Enforcement Response Regulations (ERR) to ensure enforcement actions are rendered fairly, consistently and swiftly.
- ❖ Timely completion of investigations and initiation of enforcement actions.
- ❖ Investigative reports that are accurate and complete.
- ❖ Continue consultation with our Enforcement Branch Liaison (EBL) for guidance on investigations and appropriate enforcement response.
- ❖ Ensure that staff is thoroughly trained in investigative techniques and processing of enforcement actions.
- ❖ Establish a comprehensive tracking system for inspections, non-compliances, grower PUR's, investigation, and compliance and enforcement actions to ensure the principals of the Enforcement Response Regulations are met.

- ❖ Continue outreach to regulated community regarding the Enforcement Response Regulations and repeated violated code sections.
- ❖ Refer cases to the District Attorney or to DPR for state action when appropriate.

Measure of Success

- ❖ Improvement in the quality of investigations and achievement of consistent enforcement response.
- ❖ Reduction in time to complete investigations and initiate enforcement actions.
- ❖ Decrease in repeat non-compliance by violators.

Summary of County Priorities and Other Pesticide Regulatory Activities Included in this Work Plan.

Attempt to increase structural inspection activity of Branch 1, 2 & 3 applications (pages 5 & 6)

Training of County Staff on pesticide laws and regulations, CDPR policy and compendiums; Continue to evaluate our training process and develop training methods, including PUE core program elements, access to training modules and CDPR/Structural Workshops. Staff continues to attend training sessions on structural workshops, hearing advocates, tribal communication and interaction when possible. Utilize CDPR staff and resources in the staff training process. (Pages 5, 7 & 9).

Regulatory outreach and education; provide training and outreach to growers, applicators, pest control advisors and the general public. Target audience: QAL/QAC, PCA and growers. (Pages 3, 4, 8 & 9).

Review investigations and cases for possible referral to CDPR for state action; coordination with DPR EBL on all priority cases, sensitive or high level incidents, complaints, or other cases which might have multi-county or statewide applications for guidance on investigation and enforcement response (Page 8)

Ensure compliance with recent label changes (2-gen anti-coagulants, chlopyrifos becoming a restricted material). Outreach to the public, especially ranchers in respect to the change in anti-coagulants (rodent bait).