



Val Dolcini  
Director

# Department of Pesticide Regulation

Gavin Newsom  
Governor

Jared Blumenfeld  
Secretary for  
Environmental Protection

## SANTA CLARA COUNTY PESTICIDE REGULATORY PROGRAM 2018-2020 PERFORMANCE EVALUATION REPORT

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY  
DEPARTMENT OF PESTICIDE REGULATION  
1001 I STREET  
SACRAMENTO, CALIFORNIA 95814

JUNE 29, 2021



## Performance Evaluation of the Santa Clara County Agricultural Commissioner Pesticide Use Enforcement Program

---

This report provides a performance evaluation of the Santa Clara County Agricultural Commissioner's (CAC) pesticide use enforcement (PUE) program for the calendar year(s) (CY) 2018-2020. The Department of Pesticide Regulation (DPR) conducts these evaluations at least once every three years, as required by 3 CCR section 6394. The report evaluates the performance of goals identified in the CAC's enforcement workplan as well as the program's adherence to DPR standards in the Pesticide Use Enforcement Standards Compendium <http://www.cdpr.ca.gov/docs/enforce/compend.htm>

---

**I. Summary Report of Core Program.** This section identifies the evaluation findings.

**A) Restricted Materials Permitting:**

The restricted materials permitting program was found to **meet, with deficiencies**, DPR standards and work plan goals.

**B) Compliance Monitoring:**

The compliance monitoring program was found to **meet, with deficiencies**, DPR standards and work plan goals.

**C) Enforcement Response:**

The enforcement response program was found to **meet** DPR standards and work plan goals.

**D) Summary Statement:**

Although deficiencies have been identified in certain program areas, the Santa Clara CAC pesticide use program is currently effective.

In March of 2020 the COVID-19 pandemic forced the closure of the Santa Clara CAC offices to the public and limited county staff activities. Santa Clara CAC staff continued to conduct investigations, issue permits and provide private applicator testing with safety measures in place to protect the public and employees. Throughout the pandemic, Santa Clara CAC was able to continue their pesticide use program mission "to protect public health and the environment, promote a wholesome, ample food supply. Ensure the safe, responsible, and judicious use of pesticides by farmers, pest control companies, government, industry, and the general public."

# Performance Evaluation of the Santa Clara County Agricultural Commissioner Pesticide Use Enforcement Program

---

## II. Evaluation of Core Program Effectiveness and Work Plan Goals

### A) Restricted Materials Permitting:

#### 1) Permit Issuance.

The Santa Clara CAC permit issuance procedures and performance were evaluated through observation, records review, and interviews of relevant staff and were found to **conform** to DPR standards and expectations, including the determination of whether feasible alternatives existed or were required. The seven to fourteen biologist(s) that issued permits during the 2018-2020 CY held valid “Pesticide Regulations” and “Investigation and Environmental Monitoring” licenses.

The DPR evaluation determined that permits are:

- Issued by qualified staff;
- Issued only to qualified applicants;
- Signed by authorized persons;
- Issued for time periods allowed by law;
- Permit amendments follow approved procedures;
- Agricultural permits and NOIs contain all the necessary information;
- Non-Agricultural permits and NOIs contain all the necessary information.
- Letter of Authorization is signed by the permittee when required;  
and
- Private Applicator Certification program records are accurate and examination procedures were followed.

**Table 1. Permits and Operator IDs, by Calendar Year**

Calendar Year	Restricted Materials Agricultural Permits	Non-agricultural Permits	Operator IDs
2018	133	16	290
2019	163	16	351
2020	96	9	279

\* Numbers reported to CalPEATS by Santa Clara CAC

## Performance Evaluation of the Santa Clara County Agricultural Commissioner Pesticide Use Enforcement Program

---

### 1) Site Evaluation.

The Santa Clara CAC site evaluation procedures were evaluated through records review and interviews of relevant staff, and were found to **conform with deficiencies** to DPR standards and expectations.

The permits and Notices of Intent (NOI)

- Contained the necessary information;
- Identified treatment areas and sensitive areas that could be adversely impacted by permitted uses; and
- Identified mitigation measures and included conditions that addressed known hazards.

The CAC staff evaluated permits and determined if the use of feasible alternatives were required. Each November, the CAC requires each permit holder to submit a list of the permittee's alternatives and mitigation measures. The CAC staff utilized the statewide CalAgPermit System (CAPS), and supported by CAPS, CAC staff utilized their knowledge of local conditions to assist with permit evaluation.

The program reviews all Notice of Intent's (NOI) in a timely manner and **adequately** monitored agricultural permits utilizing pre-application site evaluations and use monitoring inspections. Not all non-agricultural restricted material permittees were inspected yearly as required by Title 3 California Code of Regulations, Section 6436.

Pre-application site evaluations of field fumigations are conducted at higher frequency. Proposed restricted material applications in close proximity to sensitive sites were given a higher prioritization for pre-application site evaluations.

**Table 2. NOIs and Pre-application Inspections, by Calendar Year**

Calendar Year	NOIs Received	Pre-Application Inspections	Percent Pre-Application Monitored
2018	527	35	6.64%
2019	410	34	8.30%
2020	403	40	9.92%

The Santa Clara CAC conducted pre-application inspections on 6.64% of their 527 agricultural NOIs during CY 2018, 8.30% of their 410 agricultural NOIs during CY 2019 and 9.92% of their 403 NOIs during CY 2020.

Note: 3 CCR section 6436 requires monitoring of at least 5% of the NOIs.

---

## Performance Evaluation of the Santa Clara County Agricultural Commissioner Pesticide Use Enforcement Program

---

### B) Compliance Monitoring:

#### 1) Inspections.

The county CAC inspection procedures were evaluated through DPR oversight inspections and records review and found to **conform** to DPR standards and expectations. The seven to fourteen biologist(s) that possess “Pesticide Regulation” and “Investigation and Environmental Monitoring” licenses perform inspections. Inspections are performed according to DPR policies and procedures.

Inspections performed by the CAC were found to:

- Adequately addressed label, law, and regulatory requirements;
- Included interviews of employers and employees as appropriate;
- Adequately documented violations; and
- Included appropriate follow-up inspections and procedures.

**Table 3. Inspections, by Calendar Year**

Calendar Year	Agricultural & Non-Agricultural	Structural
2018	186	390
2019	173	320
2020	116	83

Santa Clara County is one of four counties who participate in the Structural Fumigation Enforcement Program and perform an increased level of structural fumigation pesticide enforcement. The program is funded by an \$8.00 fee collected by the county for each fumigation conducted at a specific location. The Santa Clara CAC conducted Structural Fumigation Inspections on 4.45% of the 6543 structural fumigations performed in Santa Clara County during CY 2018, 3.60% of the 6961 structural fumigations during CY 2019 and 1.15% of the 5862 NOIs during CY 2020. CY 2020 saw a drop in the number of inspections primarily, because the county was unable to conduct inspections due to the COVID-19 pandemic.

#### 2) Investigations.

The Santa Clara CAC investigation procedures and performance were evaluated through observation, records review, and interviews of relevant staff, and were found to **conform with deficiencies** to DPR standards and expectations. During CY 2018-2020 the CAC investigated 104 Worker Health and Safety illness investigations. Ninety-one of the investigations were either closed within the 120-day timeframe or an extension request was submitted to the Enforcement Branch Liaison. Thirteen of the investigations were not

## Performance Evaluation of the Santa Clara County Agricultural Commissioner Pesticide Use Enforcement Program

---

completed within the 120-day timeframe and an extension request was not submitted. All outstanding investigations have been subsequently closed. The CAC refers and/or notifies DPR and other agencies as required. Investigations are submitted on approved forms and in the approved format. The investigations document violations and the CAC collects evidence, according to DPR standards.

Santa Clara CAC investigations are submitted with approved form PR-ENF-127 and written in the format outlined in the Compendium, Volume 5, Investigative Procedures. The CAC staff conduct interviews, collect and submit enforcement samples, take photographs, and conduct follow up inspections. Evidence is identified in the narrative and attached to the investigations case file.

A pesticide complaint log is maintained in CalPEATS. Santa Clara CAC also maintains a separate complaint log for complaints including those which are determined to not be pesticide related. Both logs are available for review.

**Table 4. Investigations, by Calendar Year\***

Calendar Year	Incidents/ Investigations Initiated	Investigations Completed
2018	65	58
2019	56	34
2020	32	55

\*Note that the number initiated and completed may refer to different time periods

- Priority investigations are provided to the District Attorney for the opportunity to pursue civil or criminal action
- Included evidence that was properly collected, and preserved for laboratory analysis
- Were initiated and usually completed in a timely manner
- Were thorough and complete

### C) Enforcement Response:

#### 1) Compliance Actions.

The Santa Clara CAC enforcement responses were evaluated through observation, records review, and interviews of relevant staff, and were found to **conform** to DPR standards and expectations.

## Performance Evaluation of the Santa Clara County Agricultural Commissioner Pesticide Use Enforcement Program

---

The CAC's enforcement response was found to have:

- Initiated the appropriate action when violations are identified;
- Sufficiently supported compliance, enforcement and public protection actions;
- Acted in accordance with Enforcement Response Regulations Violation classification(s) were appropriate;
- Decision Reports were provided when required and contained the information required by regulation
- Violation classification(s) were appropriate;

**Table 5. Enforcement Responses, by Calendar Year**

Calendar Year	Completed Agricultural Civil Penalties	Completed Structural Civil Penalties	Compliance Actions	Decision Reports
2018	6	6	90	16
2019	2	2	87	10
2020	2	3	56	8

2) Enforcement Actions.

The Santa Clara CAC enforcement responses were evaluated through observation, records review, and interviews of relevant staff, and were found to **conform** to DPR standards and expectations.

- The CAC's enforcement response was found to have:
- Initiated the appropriate action when violations are identified;
- Sufficiently supported compliance, enforcement and public protection actions;
- Acted in accordance with Enforcement Response Regulations;
- Violation classifications were appropriate; and
- Decision Reports were timely and adequate.

### III. Recommended Corrective Actions on Core Program Areas, when Required

DPR and Santa Clara CAC have jointly identified these corrective actions:

#### Site Evaluation

Extension requests were not submitted for illness investigations not completed within the required 120-day timeframe.

#### Investigations

A number of Non-agricultural restricted materials permit holders were not inspected on a yearly basis as required by 3CCR, Section 6436.

## Performance Evaluation of the Santa Clara County Agricultural Commissioner Pesticide Use Enforcement Program

---

These issues will be addressed by:

- A column has been added to the investigation and penalty tracking log for tracking the extension due dates. The PUE Deputy will monitor the tracking log.
- The PUE Deputies will meet with the Biologists quarterly and require a list of non-ag permits the Biologists have issued and the corresponding inspection date. Santa Clara CAC will continue to require an NOI from the non-ag permit holder 24 hours prior to the use of a restricted material until a yearly inspection has been conducted.

### Corrective Actions Previously Identified:

No corrective actions were identified in the previous Performance Evaluation.

#### **IV. Non-Core and Other Pesticide Regulatory Activities**

- Santa Clara CAC publishes a yearly newsletter, The Pesticide Review. The newsletter covers everything from breaking pesticide news, new regulations, how to read a pesticide label, upcoming registration and unregistered companies. The newsletter reaches 600 companies and other Bay Area counties.
- The Santa Clara Deputy Agricultural Commissioner attended the quarterly Santa Clara County Integrated Pest Management Technical Advisory Group meetings. County agencies, pest control businesses doing work for the county and interested members of the public were also present.
- The Santa Clara Deputy Agricultural Commissioner attended the monthly Information Management Committee Technical Advisory Panel (IMTAP) committee meetings 2018-2020 for CalAgPermits and CalPEATS' enhancements.
- In 2020 Santa Clara County worked with the company that created CalAgPermits to create an on-line registration system for pest control businesses, farm labor contractors, and pest control advisors. The County sent both an e-mail and a letter to all of the previous year's pest control business registrants alerting them to the new online registration system. These registrations are linked to the CalAgPermits and the CalPEATS' inspection program so staff can see registration information in the field while performing inspections.
- In conjunction with the Structural Fumigation Enforcement Program Santa Clara CAC maintains statistics and tracks the number of inspections performed in the county on a fiscal year basis. Staff attends quarterly enforcement meetings with the other three participating counties, DPR, SPCB, and representatives of the fumigation industry and report the inspection findings at these meetings. The County also publishes the statistics and topics of interest in a yearly newsletter to the fumigation companies registered in Santa Clara County.



## Performance Evaluation of the Santa Clara County Agricultural Commissioner Pesticide Use Enforcement Program

---

The County tracks structural inspections not only by company, but also by field representative. A file is created for each field representative working in the county, so compliance records can be tracked for each licensee. The structural industry is aware of this practice and the county has been contacted by structural companies inquiring about a potential new employee's compliance history.

- In cooperation with the Department of Environmental Health, Santa Clara CAC continued operation of the pesticide container recycling program established in 2008. The program accepts rinsed high-density polyethylene (HDPE) pesticide containers at a designated site in Santa Clara County. The program also accepts properly prepared 5-gallon buckets and lids, and 35-gallon or 55-gallon plastic barrels.
- Santa Clara CAC's office provides presentations for continuing education classes and outreach activities for growers, pesticide applicators, certified applicators, and other industry partners. The continuing education topics include laws and regulation updates, pesticide worker safety and field worker safety. The County's continuing education classes are presented in both English and Cantonese.

<b>Continuing Education and Outreach 2018</b>	<b>Date</b>	<b>Attendees</b>
Beekeepers Guild- permits & pesticide regulations	01/08	40
Pesticide Safety – Parks & Roads county employees, N series & PPE	1/17,24,31	50
City of San Jose – Squirrel & Gopher Control , pesticides & IPM	02/02	45
Western Exterminator – CCR 6970 Surface water protection	02/02	31
UCANR -Transplant Production workshop – Permits & regulations for growing selling & pesticide use	03/06	120
Weed Mgmt Meeting –Hosted only, no SCC speaker: RoundUp alternatives, volunteer management & UV weed control;	03/23	90
UCANR Central Coast Pepper Production Workshop- Pesticides, training, permits & schools	04/04	38
Fieldworker Training – pesticide safety - Spanish	04/06	29
SCC Vector – N series – pesticide safety	04/25	140
CAPCA – Squirrel & Gopher Control IPM	05/09	24
Thrasher Pest Control – Mock application inspection	05/22	30
Target Field Days – Drift control	05/23	60
SCC Ag outreach booth at fruit festival	07/28	-----
UCANR Squirrel Workshop	09/11	110
City of Sunnyvale – PPE /pesticide safety	10/04	30

---

## Performance Evaluation of the Santa Clara County Agricultural Commissioner Pesticide Use Enforcement Program

---

<b>Continuing Education and Outreach 2019-2020</b>	<b>Date</b>	<b>Attendees</b>
PPE, Violations, Fipronil, Fume of Branch 2 pests	03/2019	40
PCOC Meeting; history of chlorpyrifos, PPE & Product Compliance	03/2019	23
Hay Days	03/2019	40
Vector Control Training; N-Series, PPE, Equipment	05/2019	40
City of Sunnyvale; Annual Pesticide Training; regulations, PPE, Labels	10/2019	45
Grower Continuing Education Meeting Webinar	12/2020	60

### **V. Priorities and Other Pesticide Regulatory Activities**

- The Santa Clara licensee registration procedures ensure that pest control businesses, pilots, agricultural pest control advisers, farm labor contractors and structural pest control operators are registered according to DPR policies, and that the registration process is effective.
- Santa Clara County has not approved cannabis cultivation in the county corridor. The City of San Jose has approved cannabis cultivation, and there are currently eight legal grows within the city limits. Santa Clara CAC is conducting yearly headquarter inspections in this emerging market to assure new growers are educated in pesticide laws and regulations. Staff is continuing to monitor established growers to be sure they continue to be in compliance.
- The School Notification regulations, implemented in 2019, limited pesticide use near schools. The new regulations include application prohibitions and restrictions within ¼ mile of a school, Monday through Friday, 6:00am-6:00pm and annual notification by the growers. Staff worked directly with growers to ensure the growers understood the notification process and requirements. Staff also helped growers with the pesticide submissions. Santa Clara County had 100% compliance the first year.
  - 33 growers were required to submit annual notification.
  - 90 agricultural sites are within a quarter mile of a school site.

**Performance Evaluation of the Santa Clara County Agricultural Commissioner  
Pesticide Use Enforcement Program**

---