



## **KERN COUNTY PESTICIDE USE ENFORCEMENT (PUE) MULTI-YEAR WORKPLAN FOR 2021/2023**

### **PESTICIDE USE ENFORCEMENT RESOURCES:**

#### **Personnel**

- 9 Agricultural Biologists (8 of which are full time PUE and 1 works PUE 50% of the time.)
- 1 full time Supervising Agricultural Biologist IV @ 100%
- 1 Deputy Director @ 93%
- 4 of our Agricultural Biologist III's are bilingual in Spanish and are compensated by the County of Kern for her bilingual skills.
- All staff is centrally located in our Bakersfield Office and report directly to the Supervising Biologist IV's and Deputy.
- Each of our PUE staff is fully licensed and trained with experience ranging from 1 to 22 years.
- Each PUE Biologist is a subject matter expert in one or more areas of pesticide enforcement.

#### **Other Assets:**

- Each PUE Biologist and Supervisor has an IPAD assigned for field use to access CalPEATS and CalAgPermits.
- Each PUE Biologist has a cellular telephone assigned for his/her exclusive to use and assist in availability.
- The PUE Supervisor and Deputy each have a cell phone for their exclusive use.
- Each PUE Biologist, Supervisor, Deputy and clerical employee has a dedicated computer workstation with individual email and internet access.
- In addition, we have a PUE duty workstation and 5 dedicated workstations for permit issuance. (Permits can also be issued at each person's individual workstation)
- Two complete sampling kits, which include all required sampling supplies, investigative sampling procedures, and safety equipment.

# CORE ENFORCEMENT PROGRAM

## A. Restricted Materials Permitting

### Goal

- Protect the people of Kern County in occupational and non-occupational settings and their environment, while allowing safe and effective pest control operations through its Restricted Materials Permitting process. Kern County will do this by effectively evaluating permitted sites, pesticides applied and the surrounding environment to determine the likelihood of adverse impacts and require feasible alternatives and/or other mitigation measures to be used to prevent those possible impacts when necessary.

### Current Status (per year)

- Restricted Material Permits – 890
- Operator ID's - 200
- Notices of Intent – 12,000
- Total Agricultural Production Sites Issued – 15559

### Permit Issuance and Review Process

#### Permit Issuance

- Restricted Material Permits are issued for one year or less to the operator of the property to be treated. Permit sites are evaluated prior to the issuance of the permit utilizing our Geographic Information System (GIS) with an automatic check for sensitive areas.
- Each site to be issued is identified in GIS to the field level using aerial imagery and prior year site boundaries. Residential areas, schools, churches, waterways, parks, and other sensitive areas are noted on permit maps we produce using GIS to assist in evaluating sites to determine if a substantial adverse impact may result from restricted material applications. Surrounding crops are updated on a daily basis. Feasible alternatives to restricted pesticides are considered and implemented when appropriate.
- The Biologists ensure that permit applicants are qualified and have met the requirements to hold a restricted materials permit. Private applicators and qualified applicators are verified and listed on the permit. If the operator of the property is not available to sign the permit, the authorized representative is allowed to sign with the proper documentation giving him or her authority to do so.
- Permits are issued using the CalAgPermits System, which allows instant online access.
- Permits are issued by licensed and qualified staff whose experience ranges from 1 to 22 years in the area of pesticide use enforcement.
- From mid-December through the beginning of February, as many as five PUE Biologists are assigned to the office to handle permit issuance. Kern County allows operators the convenience of both scheduled appointment times or walk-in permit issuance on a first come first served basis.
- Non-agricultural permits are currently issued to the Property Operator or Pest Control Businesses subsequent to a review by a county Biologist who determines if their activities come under the umbrella of a non-ag situation.
- Annual training on the policies and procedures used to issue permits and to properly identify sites is given by the PUE Deputy, Supervising Biologist IV and/or the DPR

Enforcement Branch Liaison.

### **Notice of Intent (NOIs)**

- Notices of Intent (NOIs) are recorded on the appropriate form and are received electronically, via fax, voice mail and walk-ins. A minimum of one PUE Biologist is assigned to the office on a daily basis. This PUE office duty person reviews all NOI's for accuracy and completeness using specific GIS sensitive area tools. They are then assigned to the appropriate geographical "area". The county is divided into four "areas" and PUE Biologists are assigned to each of these areas. PUE Biologists also perform weekend and Holiday duty to ensure timely review of NOIs.

### **NOI/Site Monitoring**

- The PUE Biologists assigned to the four areas within the county review the NOIs and determine which of the proposed applications are in need of pre-application inspection. This decision is based on many factors such as the surrounding environment, distances to sensitive areas (residential areas, schools, parks, etc.), historical complaint areas, application method (air/ground), pesticide formulation (fumigant, liquid, dust), pesticide used, commodity, and applicator.
- Pre-application site inspections are performed on a minimum of 5% of Notices of Intent received.
- All fumigant applications are given priority for pre-site inspection, and nearly all are inspected to assure the buffer zones are both accurate and adequate, and that other mitigating conditions are being complied with.
- Pre-site aerial applications of any restricted material near sensitive areas.
- Pre-site cotton defoliation applications near sensitive areas.

### **Planned Improvements**

- Kern County will continue to utilize their unique GIS to evaluate permitted sites.
- Annual survey to update sensitive area layer on GIS and document environmentally sensitive areas on permit maps.
- Continuous review of GIS sensitive area layer during pre-site and other inspections.
- Continue emphasis on online submission of Pesticide Use Reports.
- Update Permit Conditions as needed to mitigate adverse effects from pesticide use while allowing for safe and effective pest control.
- Permit conditions were updated for Chloropicrin, Metam Sodium and General Permit Conditions to include New School Notification Requirements and Use Restrictions for Pesticide Use Near School sites and the New 48 Hour Notice of Intent Requirement to Apply Restricted Materials to increase the protection of applicators, agricultural workers and the public.

### **Measures of Success**

- Kern County will continue to conduct internal review of issued permits for discrepancies or errors and provide the appropriate staff training when issues arise.
- Continue to work with Department of Pesticide Regulations' (DPR)'s Enforcement Branch Liaison (EBL) on issues involving permit issuance and site evaluation to ensure that Kern County meets all the requirements during the evaluation process on this core requirement.
- Kern County will continually review GIS site/crop information to ensure we have the most accurate information available.

- According to the California Department of Public Health’s “Agricultural Pesticide Use Near Public Schools” study, 99.4% of the pesticide use report data from 2014 could be linked to a specific location using the Kern CAC’s GIS program. We believe we have the most accurate crop location information in the state.

## **B. Compliance Monitoring**

### **Goal**

- To measure the regulated community’s compliance with pesticide laws and regulations and take appropriate action when violations are discovered to reduce these incidents and ensure the safety of people and the environment.
- To investigate all allegations of pesticide misuse and violations, and look into inquiries from concerned citizens to determine if pesticides are being used safely and in compliance with all laws and regulations.

### **Current Status** (per year)

- Pre Application Site Inspections – 850
- Pesticide Use Monitoring Inspections - 135
- Pesticide Mix-Load Inspections - 43
- Field Worker Safety Inspections - 62
- Records Audits - 72
- Structural Inspections - 44
- Percent Compliance for all inspections – 91%
- Investigations – 82 (100%)
- Pest Control Business, Advisor, Pilot, Farm Labor Contractor and Structural Pest Control Registrations – 900

### **Comprehensive Inspection Plan**

- Pesticide Use Monitoring inspections are conducted on Growers, Pest Control Businesses and other pesticide users. We prioritize these inspections based on our experience with compliance and the potential hazard posed by the application. Method of application, material being applied, compliance history of the applicator, proximity to sensitive areas and other criteria guide our decision to inspect.
- Field Worker Safety inspections are conducted only in fields where there has been a pesticide application in the past 30 days. This concentrates our resources on fields with the highest possibility of hazard. We also consider proximity to other treated fields, compliance history of the employer and the potential for fieldworker exposure to treated surfaces.
- Records Audits and headquarter inspections are conducted as a follow-up for all inspections where violations are discovered. In addition, we audit pest control businesses, pesticide dealers and pest control advisors every third year.
- All biologists conducting inspections will follow DPR’s Inspection Procedures Manual.
- The Supervising Agricultural Biologist will review all inspection reports for accuracy and completeness ensuring all applicable inspection criteria is addressed.
- Biweekly staff meetings are scheduled for coordination, dissemination of new information and training of staff on any issues that may need attention.

## **Comprehensive Investigation Plan**

- We will follow the Kern County Hazardous Material Incident Response Plan and develop an individual investigation plan in response to each alleged incident.
- All investigations will comply with DPR's Investigation Procedures Manual.
- We will exceed DPR's established standards for beginning non-priority investigations.
- DPR's established standard for beginning priority investigations is that all priority investigations will be initiated as soon as possible and within 48 hours of notification. We will begin all priority investigations as soon as possible and within 24 hours of notification.
- The Supervising Biologist will assign all reports/complaints to be investigated by a specific biologist(s).
- The assigned biologist(s) will thoroughly investigate all allegations of violations or concerns related to pesticide use.
- The assigned biologist(s) will consult with the Supervising Biologist and/or Deputy during each investigation to discuss information discovered and/or issues of the case to determine if the individual investigation plan needs to be revised.
- The assigned biologist (or lead biologist) will complete a Pesticide Episode Investigation Report that addresses all of the allegations or concerns involved with the complaint or inquiry.
- An extensive review program conducted by the Supervising Biologist and Deputy will ensure reports are prepared in a complete and thorough manner.
- We will follow the DPR timelines for completion of investigations, including requesting extensions when that becomes necessary.
- We will use the "Responding to Non-Occupational Pesticide Use-Related Exposure Episodes" guidance documents for those incidents that meet SB 391 criteria.

## **Planned Improvements**

- Continue to target pre-application site inspections on fumigants, which historically have been the source of some of our most serious incidents.
- Increase use monitoring inspections of fumigants and aerial applications which have a potential to create serious incidents.
- Continue to conduct surveillance activities and use monitor inspection on Maintenance Gardeners that use pesticides incidental to their business.
- This segment of the regulated community is required to be qualified and licensed to do this work. In Kern County and Statewide, this segment of the regulated community has a poor rate of compliance with licensing and other requirements.

## **Measures of Success**

- Continue an overall compliance rate of around 90% or above for all inspections conducted.
- An increase in the number of fumigation and aerial application inspections completed.
- Continue to work with DPR's EBL during oversight inspections and investigation evaluations to ensure that Kern County meets all the requirements during the evaluation process on this core requirement.
- Increase the number and percent (%) of licensed and registered Maintenance Gardeners in Kern County.

## **C. Enforcement Response**

### **Goal**

- To protect the public and environment of Kern County by taking fair and appropriate action in a timely and effective manner when pesticide law or regulation violations are discovered. These appropriate actions will deter the regulated community from committing pesticide violations in the future.

### **Current Status** (per year)

- Agricultural Civil Penalties - 50
- Structural Civil Penalties - 3
- Cases Referred to DPR or District Attorney - 0
- County Registration Actions - 0
- Violation Notices – 55

### **Enforcement Response Plan**

- Each PUE Biologist conducts their own inspections and investigations, writes up the appropriate reports and prepares a complete file with any supporting documentation.
- Each violation discovered will be documented with a Notice of Violation (NOV) issued by the inspecting or investigating biologist.
- A NOV is a compliance action issued to the violator of a pesticide laws or regulations and is taken for all violations discovered during an investigation and/or inspection.
- The Supervising Biologist ensures each inspection or investigation that documents a violation is accompanied by an NOV to be issued to the violator.
- The Supervising Biologist along with the inspecting or investigating biologist will determine the “Class” of each violation discovered.
- All Compliance and Enforcement Action decisions will be based on the “Violation Class” and CCR Pesticide Enforcement Response regulations.
- The history of each entity violating laws or regulations will be considered when determining if Enforcement Action should be taken and if so at what level.
- Repeat violations warrant a more severe action or penalty.
- The compliance history for each permit holder, PCA, PCB, etc. will be maintained in a separate “compliance file” to facilitate timely and complete review of each entity’s compliance history.
- Kern County will monitor each incident investigation and NOV issued to ensure that we take Compliance Action and/or Enforcement Action in a consistent uniform manner that meets CCR Pesticide Enforcement Response regulations.
- Kern County will always take Enforcement Action when required by the CCR Pesticide Enforcement Response regulations.
- Kern County may take Enforcement Action when allowed by the CCR Pesticide Enforcement Response regulations even if it is not required.
- Kern County may choose not to take Enforcement Action when allowed by the CCR Pesticide Enforcement Response regulations.
- Consistency, quality control and compliance with CCR Pesticide Enforcement Regulations is assured through extensive review by the Supervising Biologist, PUE Deputy and Agricultural Commissioner.

- Kern County will match an appropriate response to each violation discovered to ensure sustained compliance in the future while meeting the requirements of CCR Pesticide Enforcement Regulations.
- Kern County provides its District Attorney an opportunity to participate in priority investigations and/or pursue a civil or criminal action when a violation are discovered during those priority investigations
- Kern County will monitor each incident investigation and write-up to ensure that we meet DPR established time-lines for completion of all required actions.

### **Planned Improvements**

- Kern County is pleased with the status and effectiveness of their current Enforcement Response Plan and at this time has no plans to change it.

### **Measures of Success**

- Continue to work with DPR’s EBL during this core program evaluation process to ensure that Kern County meets all the requirements of CCR Pesticide Enforcement Regulations.
- Continue an overall compliance rate of around 90% or above for all inspections conducted, and reduce the number of violations alleged and/or discovered during investigations.

## **KERN COUNTY PRIORITIES & OTHER PESTICIDE REGULATORY ACTIVITIES**

### **A. 48 HOUR NOTICE OF INTENT REQUIRED TO APPLY RESTRICTED MATERIALS IN KERN COUNTY**

The “Pilot Project to Protect Agricultural Workers” was established as a means to improve communication between agricultural neighbors in an attempt to reduce pesticide related incidents. Due to the success of the program, as of January 1, 2018, it was applied to all of Kern County. The Kern County Department of Agriculture and Measurement Standards will notify adjacent growers of applications of Restricted Materials requiring a Notice of Intent (NOI). Growers proposing applications of Restricted Materials will be provided with information regarding their agricultural neighbors. Notices of Intent to apply Restricted Materials in Kern County must be submitted 48 hours prior to the proposed application.

#### **Goal**

- Increase the level of communication between members of the agricultural community of Kern County, with the intent of reducing the risk of pesticide drift exposure to agricultural workers.

#### **Current Status (per year)**

- NOIs to be reviewed/entered – 12,000
- Notices emailed – 12,000 +
- Data Transmitted – daily

#### **Countywide 48 Hour Notice of Intent to Apply Restricted Material in Kern**

- This permit condition is designed to provide growers with information regarding nearby pesticide applications so that they can coordinate with the applicator to ensure there are no conflicts involving field workers and their proximity to pesticide applications.

- It encompasses all of Kern County.
- Requires 48-hour notice of intent for production agriculture restricted material applications in Kern County.
- Entails an active notification element administered by the Kern CAC.
- When a Notice of Intent for the use of a restricted material in production agriculture is submitted, the Kern CAC notifies adjacent permittees utilizing existing Permit information and GIS database.
- Agricultural neighbors are notified through an emailed GIS permit map of applications adjacent to their property along with contact information.
- The Kern CAC also sends the permittee filing the NOI a list of the adjacent permittees whom the commissioner notified along with their contact information.
- Staff present 365 days a year to input data from NOIs.
- Provide the permittee filing the notice of intent with a list of adjacent permittees and their contact information who the Kern CAC notified in the pilot project area.

### **Planned Improvements**

- May have to add additional computers to disseminate notices to nearby growers.

### **Measures of Success**

The number of incidents involving field workers and nearby applications has decreased since this pilot project was implemented.

## **B. KERN RURAL EMERGENCY DATABASE (KERN RED)**

### **Goal**

- To provide emergency responders with grower, crop and treatment information via the internet when 911 dispatches to rural areas of Kern County in order to reduce the effects of any possible pesticide incident.

### **Kern RED Details**

- Website that includes Kern County's GIS information related to crops and growers to emergency responders.
- Emergency responders can select a site on a web-based GIS map to gain the growers name, contact information, known associated contacts (PCAs, PCBs, Dealer, etc.), likely chemicals applied and information on those pesticides.

### **Planned Improvements**

- Spatially locate every notice of intent on our Kern RED Notification system
- Continued outreach and training for emergency responders.

### **Measures of Success**

A more informed emergency response system that can effectively deal with pesticide related incidents in a more timely manner.



## **C. PESTICIDE EDUCATION AND OUTREACH**

### **Goal**

- To protect the public and environment of Kern County by educating the regulated community so that they have the knowledge to comply with pesticide laws and regulations and the best information available safe work practices.
- To reach out to community organizations and the public to foster an atmosphere of open dialogue related to pesticide issues.

### **Examples of Pesticide Education and Outreach**

- 16 continuing education presentations per year (in English and Spanish) aimed at private applicators and growers.
- Presentations at other organizations' (CAPCA, PAPA, CAAA, UCCE, etc.) events to provide continuing education to the regulated community.
- Presentations at the Annual Fieldworker Appreciation Day (Spanish)
- Member of Kern County's Spray Safe Committee and presenter at Spray Safe's annual event. This event promotes communication between growers and their neighbors, the public and their employees and preaches the attributes of employee empowerment and safety first.
- Member of the Kern Environmental Enforcement Network (KEEN) that connects community organizations, non-profits and local regulators to assist us in an understanding of the public's concerns and to inform the public of our role in pesticide use enforcement.
- Involvement in the Kern Environmental Task Force which brings regulatory agencies and the District Attorney's office together to discuss cases and foster cooperation between the agencies.

### **Planned Improvements**

- Keep an open door policy to interact with the regulated community, cooperating agencies, community organizations and the public.

### **Measures of Success**

- Maintain a relatively high rate of compliance (90% +) with pesticide laws and regulations while fostering an open relationship with other agencies and the public.

## **D. OTHER PESTICIDE REGULATORY ACTIVITIES**

Kern County is also involved in the following Pesticide Regulatory Activities.

### **• Non-fumigant Volatile Organic Compound (VOC) regulation compliance**

Kern County has been actively educating the regulated community about the requirements of these regulations and ensuring that these regulations are complied with during our compliance monitoring program.

As non-fumigant VOC prohibitions take effect, Kern County will continue outreach efforts and monitor for compliance.

### **• Fumigant label and regulation changes**

Kern County will continue outreach and monitoring to ensure Fumigant VOC Regulations, Phase II fumigant Labeling and Permit Conditions are complied with.

Kern County has already adopted many of the chloropicrin mitigation measures proposed into our permit conditions even before suggested permit conditions are finalized.

- **Second Generation Anti-Coagulant Rodenticide (SGAR) regulation compliance**

Kern County has been active educating SGAR users about the requirements of these regulations and ensuring that these regulations are complied with.

- **Bee Health and Investigations**

Kern County participates in forums and trainings related to Bee Health and works with DPR on related investigations and issues.

- **Citrus Bee Protection**

Kern County is a Citrus Bee Protection regulated county and works with the citrus and bee keeping industries to ensure compliance.

Kern County Board of Supervisors recently approved a bee ordinance to allow fining authority related to violations of code sections related to beehive registration, identification and location.

- **Schools**

Kern County is involved with outreach and continuing education at school sites and to school employees to ensure our children are safe.

Kern County prohibits applications of Restricted Materials requiring a permit within ¼mile of schools in session or with activities taking place at the school.

Kern County enforces various other permit conditions and label requirements involving schools.

Kern County permit conditions include the New School Notification Requirements and Use Restrictions for Pesticide Use Near Schools. Kern County participates in education and outreach to the regulated community about the requirements of these regulations and ensuring that these regulations are complied with.

- **Residential Pesticide Monitoring**

Kern County is dedicated to monitoring use of pesticides in residential areas. We conduct a variety of structural inspections, monitor applications made by the landscape industry, and investigate any complaints or concerns involving pesticide use in these areas.

Kern County enforces permit conditions and other requirements to protect people from pesticide applications made near residential areas.

- **Staff Training**

Kern County continuously trains their staff on laws, regulations, policies and procedures involved in pesticide enforcement. Kern County supplies their employees with all the Pesticide Use Enforcement Program Standards Compendiums and welcomes training from DPR on all subject matter.

- This is simply a list of some of the Pesticide Regulatory Activities currently being conducted by Kern County. We conduct many others activities that fall under our authority and/or discretion which are not mentioned here.