

Sutter County Pesticide Enforcement Work Plan 2023-2025



**Sutter County Department of Agriculture
Pesticide Use Enforcement
Program Planning Guidance and Evaluation
Calendar Year 2023-2025**

I. RESTRICTED MATERIALS PERMITTING

- A. Current Status
- B. Planned Improvement
- C. Goals and Projected Deliverables
- D. Measure of Success

II. COMPLIANCE MONITORING

- A. Current Status
- B. Planned Improvement
- C. Goals and Projected Deliverables
- D. Measure of Success

III. ENFORCEMENT RESPONSE

- A. Current Status
- B. Planned Improvement
- C. Goals and Projected Deliverables
- D. Measure of Success

IV. PRIORITIES AND OTHER REGULATORY ACTIVITIES

2022 Calendar Year Pesticide Regulatory Activities Monthly Report (PRAMR)

Agricultural Pest Control Businesses Registered	88
Agricultural Pest Control Advisors Registered	120
Agricultural Pest Control Pilots Registered	59
Agricultural Pest Control Dealers in County	10
Structural Pest Control Operator Registration	98
Farm Labor Contractors Registered	42
Operator Identification Numbers Issued	89
Private Applicators Certified-yearly renewal	151
Restricted Materials Permits Issued	918
Restricted Material Sites	3,445
Notices of Intents Reviewed	1,284
Pesticide Use Report Data Records	40,011
Projected Investigation Inspections	29
Projected Compliance Actions	40
Projected Enforcement Actions	20
Projected Pounds of Pesticides Applied (2018 DPR Data)	3,154,429
Estimated Work Hours	9,966

I. Restricted Materials Permitting

A. Current Status

Permit Evaluation-Process Evaluation and Improvement Planning

Permit Evaluation:

Permits for restricted materials are issued to the operator of the property to be treated. They are signed by the permittee or documented representative as per Title 3 California Code of Regulations (3CCR), Section 6420. They are issued for a period of one year or less. Perennial crops may be issued for a maximum of three years. Restricted Materials Permits (RMP) are recorded into the statewide online permitting program, CalAgPermits. Permits for Restricted Materials are site and time specific based on the filing of a Notice of Intent (NOI) as per 3CCR, Section 6434. NOI's are recorded into CalAgPermits for review and include required information such as date of intended application, method of application including dilution, volume per acre, dosage and name of pest control business. Sutter County has four enforcement districts and NOI's are sorted by district and routed to the appropriate enforcement staff for evaluation. NOI's are submitted at least 24 hours prior to start of the application. NOI's with less than 24 hour prior notice are approved when licensed staff determines, due to the nature of commodity or pest problem, effective control cannot be obtained or it is determined 24 hours are not necessary to adequately evaluate the intended application. This determination is noted on the RMP or within the NOI comments section in CalAgPermits.

Pest Control Advisors and growers indicate they have considered feasible, reasonable, and effective mitigation measures when using pesticides that require permits. This is documented on the signed countywide permit conditions page as well as the Alternatives and Mitigations Consideration form for each permit. This form is uploaded into CalAgPermits once completed by the advisor or grower. Permit applications are

documented within CalAgPermits with all applicable required information, as per 3CCR, Section 6428 and are completed by licensed staff. Nonagricultural permit applications are documented within CalAgPermits with all applicable required information as per 3CCR, Section 6430 and are completed by licensed staff.

Permits are evaluated at the time of issuance by licensed staff to determine if a substantial adverse environmental impact may result from the use of a restricted material listed on the permit. The permit is evaluated again for possible adverse impacts at the time the required Notice of Intent is received for the use of a restricted material. Sutter County has developed an extensive geo-database of permitted sites using ArcMap Geographic Information System (GIS) and CalAgPermits to help evaluate environmental concerns for all sites identified on permits. Sites that are located near sensitive areas such as schools, daycare centers, wildlife areas, waterways, apiaries and any other sensitive areas are mapped and feasible alternatives to restricted pesticides are considered and implemented as necessary. A permit or NOI may be denied or conditioned recognizing and utilizing appropriate mitigation measures near sensitive areas, such as Propanil near prunes, when pesticides of special concern such as Regiment and Clincher are used near sensitive crops, or during bloom when apiaries are within a mile of the application site. Approved mitigation methods are noted on the submitted NOI within CalAgPermits during the review process. Various mitigation measures may be considered based on knowledge of local conditions, pest management guidelines, pesticide safety information series, locally developed permit conditions, applicable laws and regulations (including 3CCR, Sections 6445 through 6489) and Groundwater Protection Areas. A County check off list identifying various mitigations measures and restrictions within the County is used during the issuance of all permits.

Resources:

County Resources:

- Sutter County devoted 4.8 positions (9,966 man-hours) in the 2022 Calendar Year to the Pesticide Use Enforcement (PUE) Program.
- Asset Allocations – at this time will be equal to the 2022 calendar year.
- Workload expectations - will be equal to our 2020-2022 work plan.
- Workload expectations include: Issuance of 936 Restricted Materials permits for Agricultural Use and 53 Restricted Materials permits for Nonagricultural Use.
- GIS mapping – permit site accuracy review for all site changes.

Permit Guidance:

- There are five Biologists issuing permits who are licensed in either Pesticide Use Enforcement, Investigation & Environmental Monitoring, or both.
- Training in permit issuance is performed on several levels. State training is utilized when available. The Deputy Agricultural Commissioner continuously trains and updates Biologists on permit issuance as outlined in the Pesticide Use Enforcement Standards Compendium Volume 3, Restricted Materials and Permit Management. The Department of Pesticide Regulation (DPR) Enforcement Branch Liaison (EBL) reviews permits during the evaluation process for inaccuracies and omissions. The Deputy Agricultural Commissioner addresses these inaccuracies during training sessions, staff meetings and individually with issuing Biologists. The Deputy Agricultural Commissioner trains Agricultural and Standards

Biologists using established procedures, forms and documents prepared by both the State and County. The Agricultural and Standards Biologists use a check list developed by the County to assure all documents are provided and issues addressed with the permittee. All documents related to the issuance of permits are reviewed and updated yearly or as needed.

B. Planned Improvements

Staff changes continued to be an issue during the 2020-2022 Work Plan. This resulted in a decrease in the number of licensed and trained staff and a decrease in total hours put into the program. Throughout the various staff changes, emphasis has been placed on meeting and maintaining the obligations of 3CCR, Section 6436. Special emphasis will be given to pre-application inspections to field fumigations as well as applications that will occur near residential areas, school sites, and apiaries. Training within the Department and in conjunction with the DPR staff will allow newly licensed staff the ability to adequately work within the permitting process and assess any proposed applications.

C. Goals and Projected Deliverables

- The Goal of Sutter County is to improve the business processes associated with the evaluation and issuance of restricted material permits. Areas in need of refinement or improvement are identified during the permit evaluation process.
- Ensure that DPR's RMP guidelines are followed during permit issuance to ensure California Environmental Quality Act (CEQA) equivalency.
- Evaluate permits for potential adverse environmental impacts.
- Approve, deny or condition permits as necessary.
- Secondary review of RMP's for completeness and accuracy by the PUE Secretary and Deputy on an ongoing basis.
- Evaluate permitting process yearly for deficiencies.
- Review permits, non-compliances, Closed Monthly Activity reports in the online Pesticide Enforcement Activities Tracking System (CalPEATS) program and discuss with licensed staff and DPR EBL.
- Address identified problem areas with training, timelines and follow-up reviews. Develop a plan of action to address any identified deficiencies or areas of concern.

D. Measure of Success

- Each Restricted Materials Permit is evaluated for public safety and environmental impacts.
- Permit conditions adequately mitigate environmental concerns.
- During the permitting process assure that permit holders have the information and tools to safely and effectively use the pesticides within the regulatory requirements.

II. Compliance Monitoring

A. Current Status

Site Monitoring Plan:

Licensed staff will monitor permits as required in 3CCR, Section 6436. A minimum of five percent of the sites identified in NOI's for proposed applications will have a pre-application site inspection conducted. Monitoring will include evaluation of the basis for the intended application including the written recommendation, if any, toxicity of material and environmental concerns (endangered species habitat, buffer zone areas, proximity to apiaries, ground water protection areas, problem areas identified from previous years, Section 18 uses, etc.). All restricted materials applications by nonagricultural permit holders are inspected once a year. Permit holders with recorded non-compliances will be monitored more frequently. A non-compliance database is compiled and copies of grower non-compliances are placed in permit files to address non-compliance history at the time of permit issuance and possible increased monitoring needs.

Sutter County has a large Agricultural/Urban interface due to cropping patterns and ongoing residential development. Offsite pesticide movement has been an ongoing issue of prime concern in Sutter County. We are striving to minimize these occurrences through education and outreach to pesticide applicators during our biannual outreach meetings. Additionally enforcement action is taken in all instances where drift has been substantiated.

Sutter County's inspection program evaluation reveals that 12% of our inspections are scheduled. These primarily include grower headquarter safety inspections and commodity fumigations. Targeted inspections comprise 25% of our inspection workload. These inspections activities are prioritized by chemical hazard, environmental concerns and applicator compliance history. The remaining 63% of our inspection activities are more random and focus on general applications during periods of increased pesticide usage, for example during dormant applications, bloom spray periods and rice pesticide applications.

Analysis of our inspection activities for the 2020 through the 2022 calendar years shows that the majority of non-compliances for Pesticide Use Monitoring Inspections were for violation of personal protective equipment required by the pesticide label and by regulation. Inspections of property operators revealed a higher non-compliance rate than pest control businesses. Similarly, property operator headquarters safety inspections had a higher non-compliance rate than pest control businesses.

In review, our current compliance monitoring program strengths are:

1. An effective targeted inspection plan utilizing the following components:
 - a) Fully utilizing CalAgPermits including NOI tracking.
 - b) California Pesticide Enforcement Activity Tracking System (CalPEATS).
 - c) An up to date non-compliance tracking database.
2. Enforcement districts are assigned to Biologists which allows them to become very knowledgeable regarding pesticide usage and cropping patterns in those areas.
3. Increased compliance monitoring activities at sites near areas identified to be environmentally sensitive such as schools, daycare centers and wildlife areas.

4. A scheduled inspection process that is effectively identifying non-compliances during property operator worker safety training and record keeping inspections.

B. Planned Improvements

Staff changes during the 2020-2022 Work Plan resulted in a decrease in the number of inspections conducted by staff. Lack of proper licensing and experience resulted in less use monitoring inspections and record audits. Staffing within the Department is now complete, and all staff have the appropriate licenses and training to adequately assess proposed applications and conduct all inspections. Regularly scheduled staff meetings and updates will produce a uniform enforcement implementation throughout the County enforcement districts. Staff will identify growers with employees who handle pesticides during the permitting process in order to better prioritize inspections in the field.

C. Goals and Projected Deliverables

The goal of the Sutter County PUE Division is to increase compliance with pesticide laws and regulations within Sutter County. Special focus will be placed on areas of non-compliance identified during property operator headquarters safety inspections.

Deliverables

- Increase the effectiveness of property operator headquarter/worker safety inspections by using the following parameters: ¼ of the headquarters inspections will be generated from applications inspection when worker safety violations are identified. Personal protective equipment violations and scenarios indicating inadequate training of employees will trigger a follow up headquarters inspection within 30 days of the original application inspection date. When possible the Enforcement Branch Liaison will be involved in follow up headquarters inspections generated due to non-compliances found during DPR oversight inspections.
- Management will perform two (2) “oversight inspections” for each enforcement Biologist each calendar year. These will be in addition to any oversight inspections performed by the Enforcement Branch Liaison.
- Improvement in identifying growers with employees that handle pesticides through:
 1. Thorough interview protocols.
 2. Analysis of permit parameters that indicate the probability of employees who handle pesticides.
- Conduct 100% use-reporting audit of all pesticide purchases during headquarters/employee safety inspections.

Based on our inspection program evaluation the following inspection goals were determined:

PRE-APPLICATION	5%
MIX & LOAD	
• PROPERTY OPERATOR	80
• BUSINESS	40
HEADQUARTERS EMPLOYEE SAFETY	
• PROPERTY OPERATOR	50
• BUSINESS	6
• STRUCTURAL	3
APPLICATION	
• GROWERS	120
• BUSINESS	40
STRUCTURAL	
• BRANCH 1	3
• BRANCH 2	20
COMMODITY	10
FIELD FUMIGATION	8
FIELD WORKER SAFETY	30
BUSINESS RECORDS	
• PEST CONTROL	4
• DEALER	2
• ADVISER	2
WATER HOLD	150

The inspection target numbers above no changes for the 2023-2025 calendar years. These numbers will be re-evaluated each calendar year and may be modified upon agreement with the Enforcement Branch Liaison.

Targeted surveillance activities will be carried out during the Rice Pesticide Program as in past years. We will also perform targeted surveillance when needed as determined by environmental concerns and applicator compliance history. Targeted inspections will be used to most efficiently focus staff time on areas of the enforcement program in order to improve compliance within the County.

The PUE Deputy will completely review all inspection reports and activities of the enforcement personnel. All non-compliances will be tracked and followed up on as required. Management will accompany enforcement staff during inspection activities throughout the year and perform “oversight” inspections to assess activities in the field and make changes as warranted to ensure an effective program.

Additionally, Sutter County offers four outreach meetings to growers each year covering various enforcement topics. Continuing education hours are offered and topics of concern

regarding enforcement issues within the County are discussed. Sutter County also provides three employee safety training sessions per year covering fieldworker and pesticide handler safety information. These training sessions are provided in English, Spanish and Punjabi.

D. Measuring Success

The goal of a comprehensive inspection plan is to increase compliance. A decrease in non-compliances found can be an effective indicator of success if all other things are equal. Striving to increase the effectiveness of our compliance activities by further refining focused and targeted inspection schemes may in the short term increase the number of non-compliances identified. A decrease in the number of non-compliances during the scope of the current Work Plan (2023 to 2025) may be a good measure of the effectiveness of our implemented program changes.

Analysis of the disposed non-compliances noted during the 2020-2022 Work Plan show an increase in both the number of violations cited during inspections and investigations as well as an increase in the types of violations noted during inspections and investigations. A review of the violations counts by year in CalPEATS, show a rise from an 11.5% non-compliance rate to a 23% non-compliance rate. This rise in non-compliance rate can be contributed to a rise in cited non-compliances and a decrease in the number of overall inspections and investigations due to staffing shortage.

III. Enforcement Response

A. Current Status

Current Enforcement Response Practices

Inspections and investigations (pesticide illness investigations & complaints) are reviewed by the Deputy Agricultural Commissioner.

When violations are found, the Biologist meets with the PUE Deputy to discuss the inspection or investigation and the compliance history sheet for the company or grower. The non-compliance is reviewed by the inspector and the Deputy with input from the other inspectors. Sutter County follows the DPR Enforcement guidelines in determining actions to be taken.

The decision as to the appropriate action is made by the Deputy with input from any inspector that has information that is pertinent to that action.

The investigation or inspection is reviewed to ensure that adequate evidence is present to prove any cited violations. If the evidence is inadequate to prove the violation, the case is returned to the inspector for further investigation or if inadequate evidence is available, the case is returned to the inspector to write a justification as to why we are not taking any type of enforcement response relating to the non-compliance. All non-compliances are addressed and actions taken are documented.

Compliance and enforcement actions are written by the inspectors. The action is then reviewed by the PUE Deputy and reviewed and signed by the Agricultural Commissioner.

If a civil penalty action is taken, the fine guidelines are followed within the appropriate fine range. In the case the fine is set lower than the fine guidelines a justification is written into the action. In most cases Notices of Proposed Actions are delivered to the respondent within 90 days of the inspection or completion of investigation. The PUE Division secretary is responsible for maintaining a log of all compliance and enforcement actions: status, certified mailing, etc.

Investigation Response and Reporting Improvement

The Sutter County Pesticide Division received 34 illness episode notifications during the 2020 to 2022 work plan. The investigations were completed and submitted to WHS within 30 days.

The current investigation response process strengths are:

1. Timely initiation and completion of investigations.
2. Episode notification tracking.

Areas identified as needing improvement are:

1. Areas needing improvement will be determined by the DPR Enforcement Branch Liaison and Deputy Agricultural Commissioner as they are identified.

Goal or Objective

Timely initiation and completion of all priority and non-priority investigations.

Deliverables

- Develop an investigative response plan for each episode notification.
- Tracking system for assuring episode notifications and investigations are completed in a timely manner.
- Comprehensive review of all reports by the PUE Deputy prior to submission to DPR.
- Review reversed decisions by appeals.
- Maintain a log of all investigations and make it available to the Department of Pesticide Regulation Enforcement Branch Liaison.

All Investigations will be handled according to the procedures outlined in the Pesticide Use Enforcement Standards Compendium, Volume V, Investigation Procedures.

Measure Success

Success will be measured according to the reduction in number of returned and/or incomplete investigations. Timeliness of investigation completion and submission will also be used as a factor in measuring the success of this program.

Program Strengths

Fully documented program and practices that result in a timely response to non-compliances.

Codified enforcement action guidelines ensure even handed enforcement actions for similar violations throughout the County.

Involvement of PUE Agricultural and Standards Biologists when deciding actions helps to address all mitigating factors prior to taking an action and also results in more even and consistent enforcement.

Intensive review of the evidence by the Deputy and Biologists is conducted. The elements of each section violated are reviewed when developing enforcement actions. Elements identified that cannot be proven are reviewed and lead to more complete investigations in the future.

Documentation and review of all non-compliances is essential and lends to the transparency of our program. This helps make the program understandable to the public and assists during oversight activities conducted by DPR.

B. Planned Improvements

Areas needing improvement will be determined by the DPR Enforcement Branch Liaison and Deputy Agricultural Commissioner as they are identified.

C. Goal and Projected Deliverables

The goal of the enforcement response plan summarized above is to provide a prompt and fair response to identified non-compliances, resulting in increased compliance by the regulated community. The actions taken must be consistent and fair in order to maintain the respect of the regulated industry as well as maintaining the integrity of the Agricultural Commissioner's Office.

Deliverables

- Enforcement Actions will be taken according to the Enforcement Response Regulations.
- Consideration of all enforcement options available.
- Timely initiation of Enforcement Actions. Enforcement Actions will be identified and initiated within 30 days of the violation.
- Immediate notification and coordination with assigned EBL on all U.S. EPA Region 9 priority cases.
- Notification of EBL for other sensitive or high level incidents and complaints for guidance on investigation and enforcement response.

D. Measures of Success

The best measure of success of the enforcement response program is the improvement of compliance for those entities who have been subject to enforcement actions. We believe consistent and appropriate enforcement response will improve compliance throughout the

County because of the expectation by industry that non-compliances will likely result in an enforcement action.

IV. Priorities and Other Pesticide Regulated Activities (2023-2025)

(DPR's list of priorities, some of which are not applicable to Sutter County.)

A. Soil fumigant use compliance

Fumigation Management Plans are required to be submitted to this office prior to the start of the fumigation for review. This includes chloropicrin fumigations for nursery certification and 1,3-D fumigations for replant.

B. Monitor for new or revised laws and regulations and ensure enforcement of any changes

Enforcement Branch Letters are distributed to staff for review when published. Staff is sent to all available training put on through CDPR and the regional offices.

C. Training and implantation on the Alternative Worksheet for Restricted Materials

Done as a matter of course through Restricted Materials Permit Renewals.

D. Compliance with the new label requirements for Paraquat use and verification of training

Done as a matter of course through Restricted Materials Permit Renewals, through NOIs and application inspections when applicable.

E. Reporting to DPR bee/pollinator incidents, including complaints or reports of loss associated with pesticide applications

Done as standard course with our respective EBL.

F. Compliance with AB 1788 second generation anti-coagulant rodenticides law

Information was distributed to affected businesses with the implementation of AB 1788. Review of product use is conducted during record inspections and complaint investigations.

G. Compliance with DPR regulations regarding pesticide use around Schools

Due to the unique Ag/Urban interface within Sutter County, special emphasis has been placed on notification and education regarding the Pesticide Use Near School sites regulations. Community outreach and increased surveillance after the adoption of the regulations has ensured compliance.

H. Environmental Justice initiatives and outreach activities

Done as standard course. Hours are tracked in the Pesticide Regulatory Activities Monthly Report Summary.

I. Monitor businesses advertising COVID-19 disinfection services for compliance with Licensing requirements

Done as standard course.

J. Ensure implementation of pesticide policies and regulations for cannabis cultivation by monitoring, and providing outreach to cannabis and hemp growers on pesticide regulatory requirements

Done as standard course through registration, permitting, and inspections of Industrial Hemp. Sutter County provides outreach through annual public education meetings for all growers. Sutter County does not allow for the cultivation of cannabis outside of private use.

K. Monitor to ensure compliance for sulfur burning in greenhouses

Dedicated staff has been directed to monitor greenhouse applications for all Worker Protection Standards. At this time, sulfur burning is not used within Sutter County greenhouse operations.

- L. Collaboration with the State Regional Water Quality Board and DPR Environmental Monitoring Branch to protect water bodies, including ensuring compliance with ground water regulations, surface water regulations, and assisting DPR with surface water studies.
Working collaboratively with the local water coalitions in response to Regional Water Quality Board requirements. Conduct application inspections of regulated pesticides to ensure compliance with the Dormant Spray Regulations and outdoor non-agricultural pesticide label requirements. Outreach at annual grower continuing education meetings by County staff and Butte-Yuba-Sutter Water Quality Coalition staff.
- M. Inspect chemigation applications with special emphasis on backflow prevention devices
Done as a matter of course through application inspections when applicable.
- N. Training county staff on pesticide laws and regulations, including DPR policies and Compendium guidance manuals.
Done on a continual basis for those active within the PUE program with assistance from the Department of Pesticide Regulations and the Structural Pesticide Board.
- O. Regulatory outreach and education. Describe subject(s) and audience, including pollinator protection, closed systems, worker protection standard (WPS) revisions Certification and Training updates, pesticides around schools regulations, and PP regulations.
Sutter County conducts multiple continuing education and outreach classes on a yearly basis. Staff participates in industry sponsored education meetings and conferences. Various types of trainings are offered for farmworkers and pesticide handlers. Sutter County is an active participant on the Yuba Sutter Farm Bureau Spray Safe Committee and helps with presentations for 400growers and farm workers per year.
- P. Collaboration with DPR in addressing U.S. EPA activities or requests.
Done as standard course.
- Q. Pesticide disposal projects providing a safe means for farmers/growers to dispose of legacy pesticides
Current surveying of need and outreach to growers is being conducted through the region.
- R. Outreach and education for community/stakeholder engagement
Sutter County participates in industry sponsored education meetings and conferences.
- S. Participate in AB 617 Air Protection Program events
Not applicable in Sutter County.
- T. Collaboration with DPR on air monitoring, including agricultural, structural, and port uses of fumigants
Done as standard course with our respective EBL and the Environmental Monitoring Branch as needed.
- U. Other special projects or significant activities identified by the county agricultural commissioner.
*Pesticide Container Recycling Program.
The Sutter County Agricultural Commissioner's program offers recycling events and locations to facilitate growers recycling of triple-rinsed pesticide containers. This program has recycled over one million pounds of pesticide containers during its 15 years.*