

Pesticide Use Enforcement Program Planning Guidance and Evaluation – October 2004 through June 2006

Purpose This document supercedes the instructions outlined in Executive Office letter 02-03 and Enforcement letter ENF 03-23.

This document provides guidance concerning all of the following:

- Statewide pesticide use enforcement program priority goals.
 - County enforcement work plan and focused activity requirements.
 - Performance standards applicable to statewide priority goals.
-

Topics This document contains the following topics:

Topic	See Page
Strategic Goals and Core Program	2
Roles and Responsibilities	3
Statewide Enforcement Program Priorities	5
Enforcement Work Plan – General Guidance	7
Enforcement Work Plans – Core Program Element Guidance	9
Focused Activity Guidance	15
Pesticide Use Enforcement Program Evaluation	17

Changes for 2004-2006 The Department of Pesticide Regulation (DPR) made the following changes to the planning and evaluation programs:

- Extended the planning and implementation cycle to two years.
 - Defined “core program” concept to focus state and local resources on important program activities.
 - Linked core program priorities to legislative mandates and DPR’s strategic goals.
 - Identified required county agricultural commissioners (CAC) enforcement work plan elements.
 - Limited focused activities to core program elements.
 - Linked future effectiveness evaluations to priority activities.
-

Two-year planning cycle Beginning in Fiscal Year (FY) 2004/05, state and local priority planning will be conducted on a two-year cycle. Extending the planning and implementation cycle will allow for better plan development and should reduce staff resource inputs. The extended cycle will also allow CACs to evaluate the effectiveness of their efforts and to make adjustments prior to the next planning cycle.

Strategic Goals and Core Program

Strategic goals guide program planning

DPR's 2001 Strategic Plan was designed to help us meet our regulatory obligations as described by the Legislature. The enforcement program priorities outlined in this document were chosen as those best suited to achieving statewide strategic goals through local enforcement activities. The CACs' pesticide use enforcement programs are instrumental to meeting the vision and mission articulated in the Strategic Plan.

Strategic vision and mission

- Vision: A California where pest management is safe and effective, and contributes to a clean, healthy, sustainable environment.
 - Mission: To protect human health and the environment by regulating pesticide sales and use, and by fostering reduced-risk pest management.
-

Strategic goal: strong enforcement reduces risk

DPR will assure that no socioeconomic group of Californians is disproportionately impacted by the use of pesticides¹ by:

- Identifying and improving areas of greatest noncompliance.
 - Ensuring that regulatory requirements are practical and enforceable.
 - Ensuring appropriate enforcement actions are taken.
 - Enhancing the effectiveness of inspections and investigations.
 - Enhancing efforts to improve compliance.
-

Core enforcement program

The “**core enforcement program**” encompasses related program areas critical to meeting pesticide regulatory program mandates and strategic goals. The core enforcement program covers:

- Restricted materials permitting.
- Compliance monitoring.
- Enforcement response.

DPR and the CACs face serious budgetary constraints while our pesticide regulatory program mandates remain the same. This situation challenges us to continue to provide an effective statewide pesticide use enforcement program with increasingly limited resources. To balance regulatory program responsibilities and goals with our current resources, DPR focused the FY 2004 to 2006 program priorities on the core enforcement program areas exclusively.

¹ DPR Strategic Plan 2001 <http://www.cdpr.ca.gov/docs/planning/strg_pln/2001plan/strtplan1.pdf>.

Roles and Responsibilities

Purpose of the pesticide use enforcement program

The primary purpose of California's pesticide regulatory program² is to regulate, prohibit or ensure proper stewardship of pesticides registered for use to assure:

- Environmental protection.
 - A safe workplace for all pesticide handlers and agricultural workers.
 - Pest control licensee competency and responsibility.
 - The ongoing availability of pesticides essential to the production of food and fiber and the protection of public health.
-

DPR responsible for statewide program

California law designates DPR as the agency responsible for delivering an effective statewide pesticide regulatory program. DPR directly regulates most aspects of this program, however, the Legislature delegated local administration of the pesticide *use* enforcement program to the CACs. The success of the *statewide* use enforcement program therefore depends on the collective enforcement achievements at the local level. To assure successful local programs, DPR uses its statewide regulatory authority to oversee, evaluate, and improve the CACs' use enforcement programs (Food and Agricultural Code [FAC] section 2281). State law also requires DPR to provide CACs with guidance, in the form of instructions and recommendations; assist CACs in the planning and development of adequate county programs; evaluate effectiveness of the local programs; and assure that CACs take corrective actions in areas needing improvement.

CACs responsible for local use enforcement

Whenever California law places joint enforcement responsibilities on the Director and the CACs, CACs are responsible for the administration of the local program with few exceptions. The FAC and Title 3, California Code of Regulations (3CCR) describe the CAC's enforcement authority, activities they must, or may, conduct to properly administer this program, the requirement to implement the local programs according to state-issued guidance, and their obligation to work cooperatively with DPR in the improvement of their programs.

Continued on next page

² Excerpted from Food and Agricultural Code section 11501.

Roles and Responsibilities, Continued

CAC discretion While the FAC and 3CCR clearly establish DPR’s oversight role, they also grant broad discretion to the CACs in the daily administration of their local pesticide use enforcement programs. The variety of pesticide use in California precludes an effective “one size, fits most” enforcement program. DPR will never be able to provide guidance for every potential contingency. Therefore, the success of our collective program depends on CACs to make sound decisions and take independent, appropriate, and consistent actions whenever necessary. DPR will support the decisions made and actions taken by CACs provided they result in fair and effective local pesticide use enforcement programs.

Role of DPR written guidance DPR provides written guidance to assist CACs and their licensed staff in making sound decisions and taking appropriate actions. This guidance also serves to promote statewide uniformity and fairness to the extent possible.

Our evaluation of DPR’s current guidance documents indicates a critical need to rescind outdated material, improve the quality of the remaining guidance, and move away from the current “prescriptive” approach.

Our written guidance does not have the force of law. It may also be inappropriate for a given situation, regardless of the age of the document. DPR expects CACs and their staff, as persons licensed to conduct pesticide use enforcement activities, to be able to obtain, analyze, and apply all relevant information in the course of responding to any given situation. This expectation is at the core of DPR and the Legislature’s willingness to grant local authority and discretion to the CACs.

Role of Enforcement Branch Liaisons DPR’s Enforcement Branch Liaisons and supervisors are the Director’s designated representatives in the field. As such, they are the CACs’ primary points of contact concerning the implementation and evaluation of the local pesticide use enforcement program. Enforcement Branch Liaisons are subject matter experts in the areas of pesticide use enforcement and response, episode investigation, and local program evaluation. Their knowledge of local issues and their authority to guide local program improvement fosters the consistent and fair implementation of regulatory requirements among independent local programs. Their actions and interventions, on behalf of the Director, promote an effective statewide use enforcement program.

Statewide Enforcement Program Priorities

Restricted materials permitting

DPR and the CACs must assure that our restricted materials permit system protects people and the environment while allowing for effective pest control. To assure effective implementation of the permit system, DPR plans to:

- Implement a site-monitoring program to focus on areas of reoccurring noncompliances.
- Assure thorough evaluation of hazards posed by proposed applications.
- Improve current restricted materials permit guidance.

Compliance monitoring

DPR's strategic goal to reduce risks to people and the environment depends on an effective and comprehensive compliance-monitoring program. Inspections and investigations allow CACs to identify and respond to potential hazards to workers, the public, and the environment.

Preliminary inspection data shows high compliance rates³. However, CACs also investigate about 1,800 pesticide episodes, issue about 7,700 compliance, and enforcement actions annually. This suggests an opportunity to improve our compliance-monitoring program to assure that violations are detected before causing adverse effects. To meet this strategic goal, DPR plans to:

- Improve Priority Episode Investigation procedures, implementation, and reporting to ensure a timely response to the U.S. Environmental Protection Agency pursuant to Cooperative Agreement between DPR, County Agricultural Commissioners and Sealers Association, and U.S. Environmental Protection Agency, Region 9.
 - Assure that our compliance monitoring program is comprehensive and effective at detecting violations.
 - Assure thorough and timely investigations.
 - Improve current inspection⁴ and investigation guidance.
-

Continued on next page

³ Inspection tracking database, 05/01/04: 8288 inspections entered that were conducted between July and November 2003 with 97.8 percent compliance with applicable regulations. The data is very incomplete at this point, however, the database includes all inspection types and most counties.

⁴ FAC section 12844(b) requires DPR to consider the comprehensiveness and effectiveness of inspections conducted in each county when assessing mill funds. DPR's current Inspection Procedures Manual discusses effective and ineffective inspection strategies but does not define comprehensive in the context of compliance monitoring. DPR intends to amend this guidance to better address comprehensiveness and effectiveness. This effort will not be completed before the beginning of the FY 04/05, however, Enforcement Branch Liaisons will work with each CAC during FY 04/05 work plan negotiations to develop and implement a local compliance-monitoring plan that addresses DPR's strategic goals within the CACs resources

Statewide Enforcement Program Priorities, Continued

Enforcement response

To realize the full benefit of a statewide pesticide regulatory program, DPR and the CACs must apply our enforcement authority fairly, consistently, and swiftly. Our joint enforcement response will emphasize worker and environmental safety and enhance deterrence by:

- Creating a climate that compels all pesticide users to comply with state laws and regulations through a program of progressive discipline,
 - Ensuring that compliance, once achieved, is sustainable,
 - Helping CACs balance the level of enforcement response with their staffing resources.
 - Improving enforcement response guidance.
-

Enforcement Work Plans – General Guidance

Option for FY 04/05 CACs may adopt the “Enforcement Work Plan Guidance” section of this document as the FY 04/05 portion of their two-year work plan and their FY 04/05 focused activity proposals. By adopting DPR’s work plan and focused activity guidance, CACs are exempted from the requirement to prepare a work plan and focused activity project proposal(s) for one year. During this time, CACs must use this opportunity to conduct program reviews, develop program improvements, and prepare baseline work plans that are meaningful, effective, and practical. DPR expects CACs to initiate work plan negotiations in the spring of 2005 to allow adequate time for review, approval, and implementation no later than July 1, 2005.

CACs who intend to adopt this guidance as their work plan and focused activities must notify their Enforcement Branch Liaison in writing as soon as possible.

Evaluate resources needed for core program CACs should evaluate the resources they need to accomplish their core enforcement program workload before negotiating their next enforcement work plan. Desirable program elements (i.e., outreach, training, focused activities) may be conducted when there are adequate resources to implement the expected core program workload.

Work plan approval DPR will approve enforcement work plans that have clear goals and deliverables and are focused on core program implementation⁵. DPR will not approve work plans where desirable activities detract from the CACs ability to implement their core program responsibilities. Enforcement Branch Liaisons will assist the CAC in identifying innovative ways to combine desirable activities with their core program responsibilities.

July 1 implementation Prior to the end of the work plan cycle, CACs will allow enough time to review and amend their baseline work plans and complete negotiations with the Enforcement Branch Liaisons to assure that implementation can begin on the first day (July 1) of the next work plan cycle.

Continued on next page

⁵ This general requirement applies to any CAC who does not adopt this guidance as the FY 04/05 portion of their extended work plan. To encourage regional consistency, the Enforcement Branch Regional Office supervisor will approve work plans. This approval cannot be delegated to non-supervisory staff, except for minor changes to the approved document.

Enforcement Work Plans – General Guidance, Continued

Required work plan components DPR wants enforcement work plans to be simple to prepare, negotiate, understand, implement, and evaluate.

To facilitate upcoming negotiations, CACs should prepare a draft plan before meeting with their Enforcement Branch Liaisons. These plans should contain the following components:

Component	Function
County resources	<ul style="list-style-type: none"> • A description of resources is strongly suggested, especially if the CAC expects resource reductions that may impact pesticide use enforcement or core program implementation. • Describe normal or expected workload for each priority area (i.e., total permits issued and Notices of Intent (NOI) approved), local program issues, and level-of-effort required for implementation (i.e., number of full-time staff needed for normal or expected workload). • Describe expected program changes in general terms (i.e., 25 percent reduction in structural pest control inspections, no annual training or outreach).
Corrective actions	<ul style="list-style-type: none"> • Required if prior evaluation(s) contained agreed-upon corrective actions. • Discuss current corrective actions and the measures that will be taken to address pertinent issues.
Core program priorities	<ul style="list-style-type: none"> • A listing of core program priorities is required. Address each DPR core program priority listed on page 2 or explain why the specific priority does not apply to the county program. See specific core program work plan guidance on the following pages. Make sure work plan commitments are commensurate with expected workload. • Local core program priority activities are optional and in addition to core program priorities.
Desirable activities	<ul style="list-style-type: none"> • Other desirable activities are optional. Workload for desirable activities depends on CAC resource availability. If the CAC elects to conduct desirable activities, the work plan must describe the planned activities, estimated resources, and expected program benefits.

Enforcement Work Plans – Core Program Element Guidance

Restricted materials permitting

Generally, applications of California restricted materials may occur only under a permit issued by the CAC. Despite declining resources, CACs must evaluate each proposed application before it occurs and document their determination that the application posed no unacceptable risks or that the permit was conditioned to mitigate identified hazards. Per 3CCR section 6436, CACs also conduct pre-application site monitoring when they determine that only on-site evaluation will allow an appropriate assessment of risk. Annually, CACs issue around 45,000 permits, approve 178,000 NOIs, and conduct 11,000 pre-application site-monitoring inspections. Statewide, CACs expend about 90 out of about 302 personnel years reported to implement the permit system⁶.

Permit system workload cannot be controlled by the CACs or by DPR and technological solutions are years away. We are required to provide an effective program regardless of current budget constraints. DPR’s permit system priorities focus on business process evaluation and improvement to assure the most efficient use of available resources. The following table provides guidance for incorporating permit program priorities into CAC work plans.

Priority	Work plan guidance
Permit evaluation – process evaluation and improvement planning	For FY 04/05 , CAC will evaluate their permit evaluation process for strengths, weaknesses and areas needing improvement, document their results, and develop a plan for program improvement ⁷ . The document should describe the current business process and their findings. This effort will allow DPR and the CACs to assess permit system resource needs and to adjust or redirect workload to match resource availability. CACs may conduct this evaluation as a FY 04/05 Focused Activity.

Continued on next page

⁶ CACs reported expending 148,261 hours implementing the restricted materials permit system out of a total of 544,052 hours reported for all licensed activities. The actual hours expended on the permit system is higher than reported because many permit system-related activities can only be captured under “Other Licensed Hours”. The hours associated with pre-application site inspections were extrapolated using current 03/04 PRAMR data. “Person Year” is based on 1800 hours per year for a full-time staff.

⁷ *References:* 3CCR sections 6432, 6428,6430, and 6434; FAC sections 14006.5 and 12825

Enforcement Work Plans – Core Program Element Guidance, Continued

Restricted materials permitting (continued)

Priority	Work plan guidance
<p>Permit evaluation – implementation</p>	<p>During FY 05/06, CAC work plans will include a commitment to implement planned improvements (where needed) and to assess value/success of changes.</p> <p><i>Note:</i> If the FY 04/05 evaluation indicates significant threats to program effectiveness, CACs are urged to take corrective action immediately. If this requires resource redirection, CACs should contact their Enforcement Branch Liaisons as soon as possible.</p>
<p>Site monitoring plan development</p>	<p>CACs will develop local, multi-county or regional site-monitoring plans that utilize CACs’ knowledge of pesticide hazards, local conditions, cropping and fieldwork patterns and handler, permittee, and advisor compliance histories.</p> <p>During FY 04/05, CAC work plans will include a commitment to evaluate their current site monitoring activities for strengths, weaknesses, and areas for improvement and develop a site-monitoring plan that addresses:</p> <ul style="list-style-type: none"> • High priority situations (pesticide by crop, by environmental condition, by location, etc.) and the proposed level of response (i.e., “staff-on-site,” “100 percent monitoring,” “as resources allow,” etc.). • Assessment schedule and success criteria to help determine plan adjustments. • The percent of total NOIs approved to be monitored. CACs should not limit themselves to monitoring five percent of approved NOIs if resources allow and the local situation requires. Pre-application site monitoring can prevent adverse episodes from occurring and, as such, is critical to permit program effectiveness. <p>CACs may conduct this evaluation and plan development as a FY 04/05 Focused Activity.</p>
<p>Site monitoring plan implementation</p>	<p>During FY 05/06, CAC work plans will include a commitment to implement, assess, and amend this plan as needed. CACs will document their assessment findings and program changes implemented. The Enforcement Branch Liaisons as part of their annual program evaluation will review this information.</p>

Continued on next page

Enforcement Work Plans – Core Program Element Guidance, Continued

Compliance monitoring priorities

Effective and comprehensive compliance monitoring is essential to assuring the safety of pesticide handlers, fieldworkers, the public, and the environment. Compliance monitoring includes pesticide use and records inspections, episode and complaint investigations, and surveillance.

Effective compliance monitoring can result in significant regulatory program improvements. Changes in our private applicator certification program stemmed from the fact that compliance assessment showed high noncompliance rate among growers (Statutes of 1995, Chapter 705, Senate Bill 800). More recently, Los Angeles CAC conducted a successful undercover surveillance program that documented significant compliance problems among residential fumigation companies. The nature and pervasiveness of the violations in combination with Los Angeles' documentation compelled the Pest Control Operators of California to publicly commit to improving compliance throughout their industry. An effective inspection strategy encompasses a broad spectrum of handling situations within the county and responds quickly to local issues.

DPR's Data Evaluation/Inspection Tracking Project currently contains compliance information from over 8,000 inspections conducted statewide between July and November 2003. Overall, compliance with all applicable requirements is over 97 percent. In contrast, many pesticide episodes investigated by CACs stem from violations and CACs issue about 7,700 compliance and enforcement actions annually. The data suggests an opportunity to improve our compliance-monitoring program such that violations are detected before they cause pesticide episodes.

Continued on next page

Enforcement Work Plans – Core Program Element Guidance, Continued

**Compliance
monitoring
priorities**
(continued)

The following table provides guidance for incorporating compliance monitoring priorities into CAC work plans.

Priority	Work plan guidance
<p>Comprehensive inspection plan development</p>	<p>FAC section 12844(b) requires mill assessment fund allocation be based on the number, comprehensiveness, and effectiveness of the CACs' inspections. Tracking quantity is simpler than evaluating comprehensiveness and effectiveness. DPR's Inspection Procedures Manual briefly discusses inspection priorities⁸ and ineffective strategies. Developing a comprehensive inspection plan will allow us to adequately measure the effectiveness or comprehensiveness of the statewide inspection program.</p> <p>During FY 04/05, CAC work plans will include a commitment to evaluate their current inspection program for strengths, weaknesses, areas for improvement, and to develop a comprehensive inspection plan based on their findings. As with permit site monitoring plans, we believe that inspection strategies developed by CACs, either individually or regionally, can be more effective and comprehensive than a plan developed by DPR. The CACs' evaluations should determine the following:</p> <ul style="list-style-type: none"> • How much of the inspection program is planned? Spontaneous? Does it appropriately balance targeted with random inspections? • Does the program cover handling situations commensurate with risk, violation history, pesticide episode occurrence, local and/or state priorities, pesticide use activities, etc? • Can the program respond to changes quickly? • Is management involved in staff inspection activities? • Does the inspection program have a measurable effect on compliance? <p>CACs may conduct this evaluation and plan development as a FY 04/05 Focused Activity.</p>

Continued on next page

⁸ Inspection Procedures Manual, June 4, 2003, pages 8-9.

Enforcement Work Plans – Core Program Element Guidance, Continued

Compliance monitoring priorities (continued)

Priority	Work plan guidance
Comprehensive inspection plan implementation	During FY 05/06 (or sooner if practical), CACs commit to implement, assess and amend the plan as needed. CACs will document their assessment findings and program changes implemented. Enforcement Branch Liaisons as part of the effectiveness evaluation will review this information.
Investigation response and reporting improvement	<p>CACs will commit to evaluate their investigation response and reports, document their findings, and implement program improvements as soon as possible. This effort should focus on:</p> <ul style="list-style-type: none"> • Timely initiation and completion of all non-priority investigations. According to illness investigation tracking, over half of the human illness investigations take longer than 120 days to complete⁹. Reducing initiation and completion times will result in improved evidence gathering. • Timely priority episode initiation and reporting. Following initial notification from DPR, CACs must initiate priority episode investigations within two working days and submit a preliminary update to DPR within 15 days. • Development and use of investigation plans¹⁰. As suggested in DPR’s investigation guidance, CACs should develop investigation plans and use the “elements of the violation analysis” techniques to reduce the time needed to obtain key evidence and complete the investigation report. Counties that follow DPR’s guidance have shown tremendous improvement in the quality and timeliness of their investigations. • Thorough report preparation. Complete inspection reports include a discussion of all suspected and causal violations discovered during the investigation. DPR staff found that investigative reports often made no mention of the enforcement findings even though the 2002 Pesticide Illness Surveillance Program report indicated a high noncompliance rate. Incomplete reports are sent back to the CAC for additional information -- a resource drain for both CACs and DPR.

Continued on next page

⁹ As of March 2004, 88 investigative reports from 2003 are not complete and 59 percent of those are over 120 days old.

¹⁰ Investigations should have a brief investigation plans that, at a minimum, list each of the elements of each of the suspected violations; list persons who need to be interviewed; list type of samples and/or other evidence necessary to prove particular elements of violations; list probable follow-up inspection activities (e.g., headquarters); provide a brief summary which consists of a few paragraphs describing violations suspected, findings of fact to-date, and planned activities; and a list of persons who need to be provided with periodic updates. An up-to-date plan usually has all information necessary to provide priority episode investigation preliminary findings to the Regional Offices within 15 days of notification.

Enforcement Work Plans – Core Program Element Guidance, Continued

Enforcement response Achieving sustainable compliance efficiently is a top priority for both CACs and DPR. DPR recognizes the difficulty in balancing limited staff resources with the need to take visible, effective, and often resource-intensive enforcement actions. The Enforcement Guidelines provide tools to help CACs choose the best enforcement option and, when resource limitations preclude a selected option, a method to document the factors that influenced the CAC’s decision.

Priority	Work plan guidance
Enforcement response evaluation	<p>DPR requests that all CACs make a commitment to evaluate their enforcement program to assure that it is fair, consistent, and timely. Special emphasis should be placed on the ability to detect and deter “repeat” violators through both compliance monitoring and enforcement responses. CACs facing budget reductions and CACs with seasonal investigation increases should take the additional step of creating an enforcement response scheme that will help balance competing enforcement response priorities with limited staff resources. At a minimum, CACs must:</p> <ul style="list-style-type: none"> • Consider all appropriate enforcement options¹¹ before taking action. If available options will not result in sustained compliance, refer to the State for enforcement action, when appropriate. • Assure timely responses to ensure against lost or compromised evidence. • Respond to all violations whether by compliance or enforcement action. This will help create a climate that compels compliance. • Choose the response that is most likely to result in sustained compliance with the most efficient use of resources. If resources preclude implementing the first choice, implement the second or third choices, as resources allow, and document the reasons for the alternative action in a Decision Report (Enforcement Guidelines). • In cases of <u>extreme staffing shortages</u> previously identified in the work plan, the greatest effort should be directed at violations that pose the greatest risk to people or the environment. Under these circumstances, DPR expects CACs to direct a majority of their resources to correcting health and safety violations and accepts that there may be no responses to certain “paperwork” violations. At a minimum, DPR expects CACs to document “no action” or “reduced action” decisions.

¹¹ See the “Regulatory Toolbox” for all CAC enforcement and compliance action options. DPR issued the laminated hard copy to CACs in February 2003. A version that does not include the general authority sections is also available at: <<http://www.cdpr.ca.gov/docs/enfcmpli/penfltrs/penf2003/2003atch/attch6.pdf>>.

Focused Activities Issues

FY 04/05 Focused Activities

DPR will approve focused activity proposals that align with the core program priorities and work plan guidance contained in this document. As discussed previously, CACs may adopt the following focused activities (described in “Enforcement Work Plan Guidance”) without creating new project proposals:

- Permit Evaluation – enforcement work plan commitment to evaluate and improve the process used to evaluate permits and NOIs.
- Site Monitoring Plan – enforcement work plan commitment to develop, implement, and assess an effective pre-application site monitoring plan.
- Comprehensive Inspection Plan - enforcement work plan commitment to develop, implement, and assess a comprehensive inspection plan.

To qualify for focused activity mill disbursement, CACs must provide DPR with a final report detailing their activities and findings for each focused activity for which payment is requested.

Administration The table below explains DPR’s general administrative requirements for Focused Activities¹².

Element	Description
Advance planning	Work may not start on an activity until it has been documented, negotiated, and approved.
Program benefit	The activity must have demonstrable program benefit. The proposal must discuss the benefits to local or statewide program.
Adequate resources	Must not detract from the CAC’s ability to implement core program activities.
Documented	Project proposal(s) must be documented. Final reports must be submitted to DPR upon completion. Funding will not be disbursed in the absence of a final report.
Funding issue	CACs will certify, in their proposals, that the activity is not already funded through other sources.
Timely submission to Regional Office	<ul style="list-style-type: none"> • Original proposals must be submitted; CAC must submit proposal amendments or cancellations to the Regional Office in a timely manner. • Completed project reports must be submitted with the CAC’s final Pesticide Regulatory Activities Month Report. Failure to submit this information will affect DPR’s ability to disburse funds appropriately.

Continued on next page

¹² CACs who adopt DPR’s work plan and focused activity guidance for FY 04/05 will not be required to document focused activity proposals, explain the program benefits, or certify funding issues. To qualify for FY 04/05 Focused Activity funding, CACs must submit a final report for each completed qualified activity.

Focused Activities Issues, Continued

Focused Activity alternatives

CACs who do not adopt DPR's FY 04/05 work plan and focused activity guidance may propose and implement Focused Activities according to the administrative requirements discussed in the previous block. CACs who choose to develop alternative Focused Activities for FY 04/05 may develop original ideas, adapt other CACs' activities to their local needs or continue implementation of activities suggested in earlier DPR Prioritization Plans (i.e., Enhanced Field Worker Safety and Chemigation Inspections).

The Environmental Monitoring Branch is in the process of evaluating the results of the Chemigation Focused Activity that some counties previously participated in. Since many chemigated pesticides are not restricted materials, the activity focused on identification of sites where chemigation occurs and where backflow prevention devices would be required. CACs interested in conducting the Chemigation Focused Activity please contact Ms. Joy Dias, DPR Environmental Research Scientist, at (916) 324-4183 or <jdias@cdpr.ca.gov>, prior to proposal development or work plan negotiation.

Pesticide Use Enforcement Program Evaluation

Coordinate evaluation with priorities

Starting in FY 04/05, DPR will coordinate pesticide use enforcement program evaluation guidelines with current DPR priorities and CAC work plan commitments.

Focus on effect not process

For many years, DPR's effectiveness evaluation focused on local program administration and CAC adherence to DPR's written guidance. In general, the evaluations show that CACs administer their programs properly and tend to follow DPR's written guidance.

Beginning in FY 04/05, DPR will ascertain core enforcement program effectiveness by evaluating the effects of CACs' decisions and actions on workers, the public, and the environment. DPR will use the evaluation results to improve laws, regulations and our written guidance, help CACs make program improvements where needed, and coordinate the sharing of effective local enforcement strategies. In short, DPR wants to shift our program evaluation process toward a cooperative and proactive approach leading to program improvement at both the state and local levels.

Core program performance standards

The statewide pesticide use enforcement program must assure the protection of workers, the public, and the environment and that pesticide risks are not disproportionately borne by any particular group of Californians.

DPR will assess the effectiveness of the statewide pesticide use enforcement program by evaluating the results of each CAC's core program implementation. This section provides general evaluation guidance for the following core program priorities:

- Implementation of corrective actions identified in prior program evaluation(s).
 - Restricted materials permitting.
 - Compliance monitoring including inspections, investigations, and surveillance.
 - Enforcement actions.
-

Continued on next page

Pesticide Use Enforcement Program Evaluation, Continued

Implementation of corrective actions The table below shows the criteria DPR will consider when evaluating pesticide use enforcement program effectiveness.

Effectiveness based on:	Suggested questions to ask...
CAC's effort to implement agreed upon action, not the actual results.	<ol style="list-style-type: none"> 1) Did the CAC implement the agreed-upon corrective actions shown in prior program evaluation(s)?¹³ 2) If not, why? What was the effect of the CAC's inaction on the program? 3) If so, did implementation correct the problem? Is it sustainable? <ol style="list-style-type: none"> a) If not: <ul style="list-style-type: none"> • Is it still a problem? • What other approaches might work within the CAC's resources? b) If so, can the solution help other CACs? Can DPR use it in regulatory or policy decisions?

Continued on next page

¹³ DPR understands that some changes or improvements may be beyond the direct control of the CAC and require external support from DPR or other sources.

Pesticide Use Enforcement Program Evaluation, Continued

Restricted materials permitting

The table below shows the criteria DPR will consider when evaluating pesticide use enforcement program effectiveness.

Effectiveness based on:	Suggested questions to ask...
<ul style="list-style-type: none"> • Occurrence of adverse incidents where CAC had a high degree of control (actual risk). • Program administration (potential risks). 	<ol style="list-style-type: none"> 1) Does the CAC evaluate all required permit information before the application takes place? <ol style="list-style-type: none"> a) If not: <ul style="list-style-type: none"> • Why? Resource limitations? Poor business process? • What are the potential risks to the effectiveness of the program? • What can be done to reduce risks and improve business process? b) If so: <ul style="list-style-type: none"> • Was it effective? Did any adverse effects still occur? • What were the costs of a full evaluation to the CACs' program? Did they give up other activities? 2) Did the CAC implement a site-monitoring program? <ol style="list-style-type: none"> a) If so: <ul style="list-style-type: none"> • Was it responsive to program needs/changes? • Was it effective? Was it preventative? • Was it comprehensive? Were all sectors or risk factors covered? • Did the CAC develop effective approaches that could be shared with other CACs? b) If not: <ul style="list-style-type: none"> • Why? • What are the potential or actual risks to the effectiveness of the permit program? • What improvements can be made? 3) Are there risks that DPR needs to address to better support the CAC's permit program?

Continued on next page

Pesticide Use Enforcement Program Evaluation, Continued

Compliance monitoring The table below shows the criteria DPR will consider when evaluating pesticide use enforcement program effectiveness.

Effectiveness based on:	Suggested questions to ask...
<ul style="list-style-type: none"> • Comprehensiveness of inspection program. • Completeness, accuracy and timeliness of investigations. 	<ol style="list-style-type: none"> 1) Did the CAC implement a comprehensive compliance-monitoring program? (See second item under the restricted materials permit program area for similar questions). 2) Does the CAC conduct surveillance? <ol style="list-style-type: none"> a) What percent is planned? What percent is random? b) Is it effective? <ul style="list-style-type: none"> • Did they find new violators or repeat violators? • Did it help the CAC improve the compliance-monitoring program? c) Is it an appropriate resource use? d) Can improvements be made? 3) Are the CACs investigations complete and timely: <ol style="list-style-type: none"> a) If not, why? What caused these problems? <ul style="list-style-type: none"> • How many were sent back for additional information? What was the nature of the information needed? • How many were not completed in a timely manner? b) What risks do these problems present to the program? c) What improvements can be made? 4) Are the CAC's investigations effective? <ol style="list-style-type: none"> a) Do they clearly explain how or why the event occurred? b) Did their investigation allow them to take appropriate enforcement action when causal violations were discovered? c) Did the investigation and follow up activities allow CAC to implement preventative measures? At the applicator or business level? Within the local program?

Continued on next page

Pesticide Use Enforcement Program Evaluation, Continued

Enforcement response The table below shows the criteria DPR will consider when evaluating pesticide use enforcement program effectiveness.

Effectiveness based on:	Suggested questions to ask...
<ul style="list-style-type: none"> • Appropriateness and timeliness of enforcement actions. • Progressiveness of response for repeat violators. 	<ol style="list-style-type: none"> 1) Are enforcement actions appropriate? <ol style="list-style-type: none"> a) Do compliance and enforcement actions fit the situations to which they are applied? Are the choices effective? Are there enforcement options that are not routinely considered but should be? b) Does it seem that the similar types of compliance or enforcement actions are applied in a routine manner? c) If there are a seemingly low number of enforcement actions <u>requiring due process</u>, is the quantity related to the staffing resources? d) Do certain industry segments receive treatment that is out-of-balance with the gravity of their violations? 2) Are enforcement actions timely? <ol style="list-style-type: none"> a) Are enforcement actions done close enough to the time of the incident to provide an effective and relevant reminder of the consequences of the violation? b) Are enforcement actions done close enough to the time of the incident to provide credible and reliable evidence? c) Are enforcement actions done in a manner so that case file preparation is not being driven solely by an impending statute of limitations? 3) Are enforcement actions for “repeat” violators progressive? <ol style="list-style-type: none"> a) Are “repeat” actions and penalties (if levied) more severe? b) Is there any timely follow-up inspection activity for persons or businesses with previous noncompliances or violations? c) If not, why not?