Mendocino County Department of Agriculture
Pesticide Use Enforcement
Work Plan
FY 08/09

Introduction

Mendocino County is a very large and geographically diverse county. Potter Valley, Redwood Valley, Hopland, Ukiah and Anderson Valley are the main agricultural growing regions excluding timber. The top crops are wine grapes, timber and pears. The types of pest control performed here are Structural Branch I, II and III, Landscape Maintenance Gardening, Field Fumigation, and Agricultural Production, which include Property Owner/Operators, Vineyard Management Companies and Agricultural Pest Control Operators. There are many small, owner-operated vineyards. There are several registered Pest Control Advisors, and a few Pesticide Dealers.

Resources

When fully staffed the department employs:
1-Assistant Commissioner
3- Agricultural Biologist/Weights and Measures Specialists.

- Inspectors work in both the Ag and Weights and Measures programs.
- The PUE program manager spends 60% of work hours in PUE with the remaining 40% being spent in other programs.
- The second inspector spends 25% in PUE primarily in structural pest control.
- The third inspector works primarily in Weights and Measures program, but assists with the PUE program workload by issuing operator identification (ID) numbers, administering private applicator certification exams, performing investigations, and reviewing pesticide use reports.

The Assistant Commissioner also contributes work hours to the PUE program by sharing in the investigations, putting together the Notices of Proposed Action (NOPAs) permit issuance, record keeping and advocating cases.

- Currently, assistant position is vacant. The department is currently under a strict hiring freeze.

Restricted Materials Permitting

Permit Evaluation

Approximately 22 Restricted Material Permits (RMPs) are issued annually.

95% of permits are renewals for mainly perennial crops, while the other 5% of permits are for one-time application such as preplant soil fumigation.

The majority of restricted material permits are issued for paraquat, 2, 4-D, strychnine, anazinphos-methyl, guthion, 1, 3-dichloropropene and carbaryl.

Restricted material permits are issued by any of the four licensed staff members.

A checklist is placed at the front of each permit file to document the issuing inspector's review of the permit.

Permits are issued to certified applicators only. Inspector verifies if applicant has a current private applicator certificate, a qualified applicator certificate or qualified applicator license.

A private applicator exam is administered when necessary, prior to permit issuance. Most private applicators renew with continuing education credits.

A Letter of Authorization from the property owner/operator is required in order to issue a permit to an applicant who is not the property owner/operator.

Permit expiration dates are matched to the expiration of the applicant's certification.

A General Restricted Material Permit Condition form is attached to all permits.

Additional specific permit conditions, recommended by DPR, are attached for use of 2, 4-D, dicamba, 1, 3-dichloropropene, and Methyl bromide.

The applicant must provide site maps indicating the location of all sensitive sites within ¼ mile of the application site.

Maps are reviewed and discussed with applicant regarding application methods, weather conditions at site, mitigation methods and other application related criteria.

Decision to issue permit is based on map, discussion with applicant's knowledge of the area, and conditions at the site.

Notice of intent requirement and procedure are explained to applicant.

If employees work as handlers and/or fieldworkers, the applicant is provided with training requirements and materials.

Blank use report forms are also provided to applicant.

a. Strengths

When fully staffed there are three licensed inspectors in addition to the Assistant Commissioner who are qualified to issue restricted materials permits.

The majority of permits are renewals for perennial crops.

Continuation of the conversion of permittees that no longer using restricted materials, from restricted materials permit to operator identification number. This significantly reduced the number of operators with a restricted materials permit.

Carbaryl, Paraquat, Guthion, Strychnine and 2, 4-D and Methomyl are the six restricted materials used most often. These chemicals can be focused on in order to identify specific hazards they present when used in the county.

The restricted material permit checklist used during permit issuance aids the inspector in thoroughly reviewing the permit prior to issue.

Permit maps being converted to aerial photo using arcgis map software.

Section, Township and Range data accuracy has greatly improved due to the completion of the Ukiah, Hopland and Anderson Valley mapping project.

b. Weaknesses

In May of 2008 the PUE program manager left on medical leave.

In January of 2009 the assistant commissioner position became vacant.

Currently, using RMPP for permit issuance until decision is made as to which permitting program will be adopted and supported by DPR.

Currently do not have a system for attaching multiple certified applicators to permit.

c. Goal or Objective

In fiscal year 07-08, we made an effort to reduce the number of RMP's issue and/or convert them to Operator ID Numbers. By querying each grower, we were able to significantly reduce RMP's to be more in line with actual use. As a part of this process, we were able to get growers to properly dispose of some of these materials, so that they did not pose a danger in storage.

We strive to assure that the permit review process is thorough, and that all pertinent information is collected and documented prior to issuance of permit. The entire process, including the NOI, assures that restricted material applications are made in a manner that complies with all applicable laws and regulations, while eliminating potential for damage to the environment, the public's health, and those involved in the application.

d. Deliverables

Continue to use the RMP checklist when issuing new and renewing permits.

Continue to update permit maps.

Setup private applicator database in Access.

Continue to identify permits with materials that have not been used and work to have them removed by permittee.

The registration of the Fruit Doctor compressed SO_2 gas as a federally restricted material in September 2008 necessitates that wineries comply with regulations regarding the purchase and use of the product. Wineries will need an Op ID and a certified applicator (qualified applicator certificate or qualified applicator license). Our office will provide guidance to wineries on obtaining a QAC or QAL with the new interim category "P" for SO_2 use.

e. Measure of Success

Annually, review new and renewed restricted material permit files. Check for use of checklist and thorough review and update of permit prior to issuance.

Site Monitoring Plan

Plan Development

There were approximately 566 annual sites in FY 07/08, approximately 2/3 are forest/timberland sites.

Approximately 31 Notices of Intent (NOIs) were logged in FY 07/08, excluding structural fumigation notices. A pre-application site inspection (pre-site) was performed on 5 restricted material applications, exceeding the 5% required.

NOI'S received in FY 07/08 were for the following sites/cops and restricted materials.

Site/Crop	# of NOI'S	Material	Seasonal Time of Use
Structural Branch 1	*	Sulfuryl flouride	All year
Wine Grapes	7	Paraquat 6 Strichnine 1	February-June
Apples	3	Carbryl 2 Aluminum phosphide 1	April-June
Pears	1	Guthion	May
Peas	3	Methomyl	July -August

Site/Crop	# of NOI'S	Material	Seasonal Time of Use
Strawberries	1	methomyl	March
Preplant Fumigation	2	1,3-Dichloropropene	October
Turf	3	Dicamba	July - August
Oats	11	2,4-D	March

* Due to staffing changes do not have an accurate value for structural NOI"S.

NOI'S are received by phone, answering machine, fax, or in person. Staff person receiving NOI takes down the information and gives the NOI to the PUE program manager or Assistant Commissioner. The NOI is recorded in the NOI log when it is reviewed. NOI is initialed to indicate approval.

Sites to be monitored are based on the following criteria:
Pesticide used and application method
Location in regard to sensitive sites
Owner/Operator compliance history
Employees as handlers
Staff availability

The total of pre-sites performed is periodically checked against the 5% of NOI requirement.

a. Strengths

Excluding structural NOIs, 31 NOI'S received in 07/08

The minimum 5% requirement for pre-application inspections of scheduled restricted material applications is met annually.

Overall, restricted material use is down.

Most sites are planted to perennial crops resulting in minimal cropping pattern and/or adjacent environmental changes to monitor.

Arc map is used as reference in NOI review/approval process and to facilitate pre-site inspections.

Pre-application site inspections are performed on all ag-use fumigations and on other NOIs as staffing allows.

Currently using structural fumigation log to track the number of NOI's for Sulfuryl flouride or methy bromide

b. Weaknesses

Geographical size of the county makes it difficult to do inspections in a timely manner.

Many of the applications take place a considerably distance from the office which does not allow enough time to conduct presites or application inspections.

Due to assistant vacancy remaining unfilled, remaining staff will assume more responsibilities normally done by the assistant.

c. Goal or Objective

To assure that site monitoring for restricted material applications meets the criteria listed above, and utilizes our resources most effectively, for the purpose of protecting the public health, and the environment.

d. Deliverables

Continue to perform pre-sites on all ag-use fumigations.

Continue to use NOI log form.

Permittees that fail to submit a NOI a full 24 hours in advance will receive the appropriate enforcement response.

e. Measure of Success

End of FY 08-09, review NOI log 5% requirement

End of FY 08-09, review NOI log for compliance with 24-hour advance compliance.

Review of pesticide use reports

Improved compliance with the 24-hour advance notice will also be measured by the inspector's ability to perform pre-sites based more on the site monitoring criteria than on the time allowed for inspection prior to application.

Compliance Monitoring

Comprehensive Inspection Plan Evaluation

Inspections are mainly performed by the two PUE inspectors. The Assistant Commissioner contributes by performing some inspections when necessary.

Inspections are usually performed Monday through Friday during regular business hours. During the peak pesticide application time of late spring/ early summer, the PUE inspectors also conduct early

morning inspections from about 6 to 8 A.M. A few weekend inspections are done on ag-use fumigations and other targeted applications/operators.

The majority of inspections are done in February through August. This is the primary pesticide application season for apples, pears and wine grapes. The PUE inspectors devote 2 to 4 days per week to surveillance and inspections.

Structural fumigation inspections and record inspections are conducted throughout the year.

Inspections are performed in 5 different geographic regions: Hopland, Ukiah, Anderson Valley, Redwood Valley and Potter Valley.

When selecting a pesticide application to inspect, the PUE program manager considers several variables: Last time operator was inspected, operators with employee handlers or fieldworkers, type of inspection, pesticide being applied, application/inspection site and operator's compliance history.

a. Strengths

A variety of pest control takes place in Mendocino County. This department does a good job of dividing resources to adequately cover agricultural (ag) and structural applications. With regard to inspections, growers with employees are given higher priority over owner/operator applied pesticides.

b. Weaknesses

In May 08 the Pue program manager went out on disability. This is during peak of PUE and other programs.

Given the size of the county, and a limited staff, it is difficult to equally cover all portions of the county. Often, operators that are close to the office are inspected more frequently because of visibility, geographical and time constraints.

Many pesticides of the structural activities occur on the coast which is considerable distance from the Ukiah office.

c. Goal or Objective

Be at full staffing in 09/10

Establish surveillance schedule that covers all crops and agricultural areas of the county.

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Inspection Goals:

Application Inspections (Non-Fumigation)	15
Field Worker Safety Inspections	5
Mix/Load Inspections	7
Field Fumigation Monitoring Inspections	1
Headquarter/Employee Safety Records Inspections	25
Pest Control Business Record Inspections	2
Pest Control Dealer Record Inspections	1

Agricultural Pest Control Advisor Record Inspections	5
Structural Pest Control Inspections	7
Pre-Application Site Inspections	5% of NOIs

*Note: The above goals have been reduced from previous years to adjust for the current staffing levels. We will further adjust these goals as resources allow.

25% of Employer Headquarter Inspections will be conducted as "follow-ups" to "use monitoring" (field) inspections where employee safety non- compliances were identified. These follow-up inspections will be initiated within 30 days of the initial use monitoring inspection.

Discussions with our DPR Enforcement Branch Liaison are also used to address statewide goals and concerns.

Inspections will continue to be focused in areas where past inspections have identified increased non-compliances.

The Program Manager will continue to review past inspection records to identify possible increased inspection areas.

c. Deliverables

Prompt follow up of violations. Inspection reports that represent a cross section of the types of pest control applications that take place in Mendocino, i.e. forestry, pears, wine grapes, structural etc.

d. Measure of Success

Success will be measured by improvements in levels of compliance as determined by compiling inspection reports at end of fiscal year.

Investigation Response and Reporting Improvement

Evaluation

Investigations are often the result of a complaint that was received. This requires that an inspector be dispatched immediately to the scene. In these circumstances, the inspector that takes the original call becomes the lead inspector for the case. When there is an option, the biologists are dispatched before the Assistant Commissioner when possible. The Assistant Commissioner will be dispatched when inspectors are not available. This system allows for the Assistant Commissioner to advocate the case if there is an action taken.

a. Strengths

Three of the four available staff for investigations are fully trained and experienced PUE inspectors. The fourth staff member primarily does weights and measures, but can assist in investigations if called upon. Even though the staff is small, we are versatile, and can respond quickly. This is often important if the violation is ongoing, or physical sampling is required. All investigative reports are reviewed by DPR staff prior to finalization.

b. Weaknesses

The Assistant Commissioner position vacant.

Mendocino County is very large geographically. It can take a couple hours to reach certain parts of the county by car. Because of this, if the violation is ongoing, it has often stopped by the time we arrive, and therefore we must rely on eyewitnesses and residue sampling results. Occasionally the lab makes crucial errors with regard to documenting and handling the sample. Also, it may take several months or more to get the results of residue analysis, delaying enforcement action, or even the decision to take enforcement action.

c. Goal or Objective

The goal is to collect evidence and determine if a violation occurred. If there is evidence to indicate that a violation did occur, the goal is then to collect good evidence that will be admissible in an administrative hearing. This includes following established protocols for the collecting physical samples. When conducting an investigation, inspectors are taught to anticipate potential violations and collect evidence accordingly. Knowledge of the specific code section, and the type of evidence needed to prove a violation of such section should be at the forefront of an inspectors mind when conducting the investigation.

d. Deliverables

Implement a log for complaints received by phone.

The deliverables are clear concise investigative reports that are submitted within the investigative deadline. All investigations are conducted following DPR's "Investigative Procedures Manual" (PUE Program Standards Compendium Vol. #5).

e. Measure of Success

The measure of success for investigations and their reports is the success rates of subsequent enforcement actions. Since the investigative report is the core of the County's evidence, the success in an administrative penalty action is dependent on a well-written report. Therefore a direct correlation exists between a well-conducted investigation with report and success in these enforcement actions.

Enforcement Response

Enforcement Response Evaluation

Enforcement Response is now codified in 3 CCR 6128. Response to all violations is now determined by following this code section.

a. Strength

All enforcement actions are taken in a timely manner. Over the past six years, Mendocino County has prevailed in all administrative civil penalty hearings in which we were involved. All appeals have been upheld.

b. Weaknesses

With the advent of the Enforcement Response Policy, we have noticed a trend in our county where growers are stipulating to violations less often and requesting more hearings. Often the grower has a

lawyer, or legal representation. County biologists are not, as a rule, trained as lawyers, but are expected to "compete" with them in these hearings. This often requires hours and hours of preparation for what often appear to be minor violations with small fines. Time spent preparing for hearings takes away from time in the field doing inspections. With limited resources available, there could well be more time spent prosecuting violations than performing field inspections.

c. Goal or Objective

The goal is to conduct an objective, thorough investigation, provide the respondent with due process, and be well prepared if a hearing is requested.

d. Deliverables

Deliverables are enforcement actions initiated and completed within two years of the violation, and following 3 CCR 6128.

e. Measure of Success

The success rate of enforcement actions is a direct measure of the success of the county's enforcement response.