PESTICIDE USE ENFORCEMENT PROGRAM WORK PLAN
for
Pesticide Use Enforcement Activities
by the
Solano County Agricultural Commissioner
for
Calendar Years 2010-2012

DPR

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Dated: 7/12/10

COUNTY

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Dated: 6/30/2010

SOLANO COUNTY DEPARTMENT OF AGRICULTURE

CORE ENFORCEMENT PROGRAM

I. Restricted materials permitting
   a. Permit Evaluation
   b. Site Monitoring

II. Compliance monitoring
   a. Comprehensive Inspection Plan
   b. Investigation Response and Reporting Improvement

III. Enforcement response

COUNTY RESOURCES

- Asst. Agricultural Commissioner/Sealer 40% of time in PUE
- Senior Agricultural Biologist/Weights & Measures Inspector (2) 60% of time in PUE
- Senior Agricultural Biologist (1) 90% of time in PUE
- Senior Agricultural Biologist/Weights & Measures Inspector (4) 4% of time in PUE
- Agricultural Biologist/Weights & Measures (3) 5% of time in PUE
- Office Assistant II (2) 50% of time in PUE
- Office Supervisor (1) 40% of time in PUE

Strengths:

- Ten full time Biologists possess Pesticide Use Enforcement license
- Each permanent Biologist and support staff has exclusive use of their own computer workstation along with access to email and the Internet
- Each Biologist has exclusive use of a vehicle
- Staff organized into teams with more defined roles and responsibilities creating better defined lines of authority over staff (Each Biologist on PUE team reports directly to PUE Program Supervisor)

Program Challenges:

- Negligible Spanish language ability
- Decrease from previous year in number of hours available for Pesticide Use Enforcement activities due to vacancies, and other programs which require staff hours
- Loss of one full time position in the program due to budget constraints

Goal:

Well trained and adequate staffing levels to address program workloads

Deliverables:

- Train support staff on all pesticide regulatory activities including data entry of use reports, notices of intent, data tracking systems, etc.
- Provide in-house training and send staff to DPR sponsored training events

Achievements:

- Front office is now staffed with an Office Supervisor and 3 Office Assistants (II) one of which is primarily assigned for clerical support of the program.

I. RESTRICTED MATERIALS PERMITTING

The restricted materials permitting program element was found to meet DPR standards and work plan goals.

a. Permit Evaluation:

- Approximately 300 Restricted Materials Permits and 200 Operator Identification Numbers issued annually
- Permits issued and updated by ten licensed and trained staff (comprised of a Progam Supervisor and nine Agricultural Biologists)
- Department administers private applicator certification examination in group sessions at three locations in the county and by drop in at the main office
- Continuing education classes that focus on pesticide laws and regulations offered by Department staff
- Permits updated on AgGIS/RMPP from changes submitted by operators prior to scheduled appointment
- Permits issued to, signed and dated by the operator of the property/certified applicator
- PUE program supervisor reviews permits for accuracy prior to issuance
- Maps required and submitted by Operator of the Property. Sensitive sites such as streams, ponds, riparian areas, residential tracts, shopping centers, schools, hospitals, recreational areas, buildings and farm labor camps identified on maps
- Seasonal permits are site specific and valid up to one year and expire no later than December 31st of the current year
- Multi-year permits valid for up to 36 months issued to operators with permanent crops or for non-ag use.
- Infrequently permits valid only for completion of job
- AgGIS/RMPP updated for any crop or pesticide changes. Supplements signed and dated by operator of the property or property operator's authorized representative
- Permittees required to verify alternatives and mitigation measures considered and adopted, when feasible

Strengths:

- Check off list used to ensure Restricted Materials Permit is correctly issued with all necessary supporting documentation
- Strongly recommend property operators remove any unused restricted materials from their permit
- All field sites are digitized in the AgGIS program
- Few restricted materials permit denials, usually due to lack of a certified applicator
- Permits for methyl bromide, chloropicrin, endosulfan and valid Section 18 chemicals issued just prior to use rather than on initial permit, allowing the biologists to do a focused assessment of the site prior to issuance.
- Permit denials documented

Program Challenges:

- Maps occasionally lack information such as site identification numbers, names of roads or disclosure of sensitive sites
- Numerous crop changes from year to year and even during the season increase permit changes and workload
- Mapping identity on AgGIS is sometimes inaccurate as glitches occur when growers share fields and the data linked to digitized sites is lost

Goals:

- Issue all permits in a timely fashion while meeting regulatory requirements for site evaluation and NOI monitoring

Deliverables:

- Review procedures for permit issuance with staff before seasonal permit issuance
- Revise permit check off list used for permit issuance
- Begin permit issuance and updates earlier in the year
- Issue multiyear permits as appropriate to assist in managing staff time.
- Complete any mapping gaps in AgGIS database

Measures:

- Program Supervisor to review permit assignment log for timeliness of permit issuance to see if time has been reduced.
- Program Supervisor to review a portion of grower files, with focus on those issued by less experienced staff to assure that permits are being appropriately issued.

Achievements:

- Procedures for permit issuance and permit check off list reviewed with staff

- Removal of unused restricted materials from restricted materials permits (most notably Furadan)
- Program Supervisor reviewed permit assignment log to facilitate work flow
- Program Supervisor reviewed most restricted materials permits for accuracy and inclusion of maps and site identification
- Growers are submitting their permit changes earlier
- Mapping and site identification are more complete
- Permits issued in a timely manner
- Updated restricted materials permit conditions

b. Site Monitoring:

- Notices of Intent called in during regular business hours logged into RMPP by support staff
- Notices of Intent left on Voice Mail recorded on log the following business day by assigned Biologist, then into RMPP by support staff
- Faxed Notices of Intent reviewed by assigned Biologist by the following day
- Biologist generates Notices of Intent from previous day and reviews to ensure a valid restricted materials permit issued for site and material and that application is appropriate for job and surrounding area
- Department's AgGIS program is utilized to assess surrounding sites
- The operator of the property, the authorized representative, or the applicator is contacted if there are any adverse conditions that would impact the application
- Notice of Intent denied and documented if the application does not meet all conditions
- Alternative methods or feasible mitigation measures proposed for above proposed applications
- Sites for pre-application monitoring selected based on known or perceived hazards, method of application, chemical, and adjacent sensitive areas
- Higher priorities to monitor those Notices of Intent with restrictive permit conditions. Examples include those for aerial applications of paraquat near any sensitive sites or crops (since the buffer is two miles if wind is toward a sensitive area), phenoxy applications just prior to bud break in grapes (since the buffer is ½ mile with wind away if grapes are not dormant), endosulfan (since the buffer is 300 feet to water and because irrigation water must be held), metam sodium (due to monitoring requirements near sensitive sites) and microencapsulated Methyl Parathion (due to the high toxicity to honey bees and three mile check for active apiary locations).
- Program Supervisor or experienced Biologist reviews Methyl Bromide worksite plans
- Pre-application site inspections performed on all Methyl Bromide soil fumigations. Inspect as many as possible at the time of application. These fumigations tend to be small acreages for the production of strawberries.
- Non-ag permittees required to submit monthly Notice of Intent.

Strengths:

- Comprehensive review of recommendations, labels, rate, and adjacent crops/area for pre-application site inspections, averting possible violations
- Experienced Senior Biologists consulted to identify any adverse conditions at or near the site
- Staff available to be on site for those applications that are highly sensitive (i.e. aerial applications that are near an ag/urban interface)

Weaknesses:

- High percentage of NOI's generated during peak permit season
- Urban development in agricultural areas increases complaints/issues

Areas needing improvement:

Maintenance of database to reconcile Notices of Intent with pesticide use reports

- Maintenance of data base file to reconcile monthly summary pesticide use reports for pest control businesses

Plan for improvement:

- Train new support staff on data entry of use reports and NOI's
- Complete pre-application site inspections on at least 5% of notices of intent for applications of restricted materials

Measure success/failure:

- NOI's received, reviewed
- At least 5% of NOI's received inspected

Achievements:

- Updated metam sodium permit condition to reflect changes in VOC regulations
- Completed mapping gaps in AgGIS database
- Amended site designations for sites that are not contiguous
- Agricultural pesticide use report data entered in a timely fashion
- Monthly summary pesticide use report data entered by the end of the month
- Notices of intent entered in a timely fashion
- Spreadsheet to monitor submission of monthly summary pesticide use reports for pest control businesses

II. COMPLIANCE MONITORING

The compliance monitoring program element was found to meet DPR standards and work plan goals.

a. Comprehensive Inspection Plan:

- Inspections performed by three licensed and trained staff
- Inspections usually performed during regular business hours
- Biologists assigned a specific number of inspections dependent on other Pesticide Use Enforcement activities, experience, and workload in other programs
- Records inspections focused on operators with employee handlers, then fieldworkers
- Prioritize records inspections looking first at: operators with employees and pesticide dealers with prior noncompliance(s).
- As staffing permits conduct records inspections for pest control businesses and growers without employees and those with previous compliant inspections

Strengths:

- Triannual records inspections for growers with fieldworkers or without employee handlers (coincides with hazardous materials inspection). Departmental opportunity to keep these growers updated on changes in regulation and ensures compliance in record keeping and storage.
- Routine roundtable meetings to for discussion of enforcement issues
- Monitoring of methyl bromide field fumigations
- Staff working in other programs notify PUE staff when an application is occurring
- Target Notices of Intent for sensitive applications or with employee handlers
- Program Supervisor reviews all inspections
- Enforcement action taken on initial non-compliant inspections of unlicensed maintenance gardeners

Program Challenges:

- Many applications occur during permit issuance period, lack staff resources to conduct inspections at this time
- Other program responsibilities
- No weekend or after hours staffing
- Appropriate completion of follow up inspections
- Monitoring inspections for commodity fumigations, aerations, non-ag permittees and Branch III's tend to be scheduled due to difficulty in randomly finding these monitoring activities
- Increased number of non-compliances results in more time spent on enforcement actions and less for inspections
- Numerous unlicensed maintenance gardeners

Goals:

- Increased monitoring of pesticide application inspections with an increasing emphasis on urban pest control activities in recognition of the increased urbanization of the western portion of Solano County

Deliverables:

- Increase number of monitoring inspections with increased emphasis in urban applications such as maintenance gardeners and structural applications.
    - 55 monitoring inspections on growers, government agencies, and pest control businesses (including agricultural, aerial, structural, maintenance gardeners and non-ag restricted materials inspections) 24 mix/load inspections
    - 3 fumigation inspections including structural, field and commodity fumigations 50 Headquarter audits for growers, government agencies, and pest control businesses
    - 15 business record audits

- Follow up inspections completed within 30 days or reasons for failure to reinspect documented
- Assign inspection goals to PUE team members
- Conduct a survey to see if weekend or after hours inspections are warranted

Measure success/failure:

- Increase timely completion of follow up inspections
- Conduct a greater percentage of urban inspections within the county compared with 2008 inspections
- Complete survey on afterhours applications and adapt hours if warranted

Achievements:

- Increased surveillance in areas where non-compliances are higher
- Followed up on non-compliant inspections within 30 days when possible
- Completed inspection goals
- Increased number of inspections on unlicensed maintenance gardeners and pest control businesses resulted in increased number of enforcement actions including cases referred to District Attorney
- Compliance inspections completed for the "unaware"

b. Investigation Response and Reporting Improvement:

- Investigations completed by three trained Biologists
- Complaints processed by a Biologist on duty or referred to Program Supervisor as necessary

- All complaints/investigations recorded on log with date of the incident, complainant name , pesticide name (if known), respondent name , type of episode, location of the incident, whether violations were found, and closing date of the investigation or complaint
- All investigations/illnesses reviewed by the Program Supervisor

Strengths:

- Investigations are initiated in a timely manner
- Investigations are thorough and complete
- All PUE staff attend DPR training
- Appropriate enforcement actions taken when incidental violations discovered

Program Challenges:

- Timely completion of investigation reports
- Completion of investigations due to time lag in receiving results of Lab analysis

Goals:

- All investigations completed according to DPR timelines and in accordance with the investigative procedures manual

Deliverables:

- Complete all investigations within state guidelines
- Increase surveillance in areas where the department lacks a regular presence to reduce complaint calls

Plan for improvement:

- Program Supervisor to track progress of investigations

Measure success/failure:

- Complete all non priority investigations within 120 days of assignment or request extensions as needed.

Achievements:

- All Worker Health and Safety illnesses completed within CDPR's requirements

III. ENFORCEMENT RESPONSE

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

- Compliance history for previous two years reviewed for any grower or business with one or more non-compliances on an inspection
- Enforcement Response Regulation is used to determine appropriate enforcement action
- Response based on the respondent's history and severity and type of violation. Greater emphasis put on Environmental and Worker, Health, and Safety violations.
- All inspections and investigations reviewed by the Pesticide Use Enforcement Program Supervisor
- Copies of inspections kept in grower/business file. Compliance or Enforcement actions written or drafted by the Biologist/Inspector or the Program Supervisor.
- Actions reviewed by Program Supervisor. Notices of Proposed Action completed by Inspectors or Program Supervisor and submitted to Agricultural Commissioner for review.
- District Attorney consulted on Class A violations the most serious non-compliances for consideration of formal prosecution

Strengths:

- Prior inspections kept on file allows for review of compliance history
- Violations identified on an inspection or violation notice form
- Referrals to the District Attorney for significant violations

Program Challenges:

- Shorten period between violation and completing enforcement action

Goals:

- An enforcement program, which is used in conjunction with outreach, application monitoring and education efforts to achieve compliance with pesticide laws and regulations

Areas needing improvement:

- Reduction in time to complete enforcement action

Deliverables:

- Work on NOPA template to generate draft enforcement actions to reduce time between violation and enforcement action
- Develop a case action worksheet to aid in assessing 3 CCR 6628 requirements for each violation found

Measure success/failure:

- Initiate majority of enforcement actions within 3 to 4 months of incident

Achievements:

- Majority of enforcement actions initiated within 90 to 120 days of incident
- Referrals submitted to the District Attorney for Class A violations and compliance that could not be accomplished through the civil penalty process.