



Audit of the Agricultural Commissioner's Oversight of the Permitting and Reporting of Pesticide Use

Report Date: March 16, 2023

Office of the Auditor-Controller
County of Ventura, California
Jeffery S. Burgh, Auditor-Controller

**County of Ventura
AUDITOR-CONTROLLER
MEMORANDUM**

To: Ed Williams, Agricultural Commissioner

Date: March 16, 2023

From: Jeffery S. Burgh

Subject: AUDIT OF THE AGRICULTURAL COMMISSIONER'S OVERSIGHT OF THE PERMITTING
AND REPORTING OF PESTICIDE USE

We have completed our audit of the Agricultural Commissioner's oversight of the permitting and reporting of pesticide use. Our overall audit objective was to determine whether the Pesticide Use Enforcement (PUE) program's oversight practices for the permitting and reporting of pesticide use were appropriate during the period of January 1 through December 31, 2021.

Executive Summary

Overall, we found that the PUE program's oversight practices were adequate for many areas of the permitting and reporting of pesticide use. For example, permits and operator identification numbers were appropriately issued and adequately documented. We also determined that PUE program staff consistently reviewed notices of intent to use restricted materials for completeness.

However, we identified areas to strengthen the PUE program's effectiveness. Specifically, we found that:

- Developing written policies and procedures specific to Ventura County operations would help ensure continued consistency in PUE program practices.
- Implementing targeted review of pesticide use reports and addressing issues with pesticide users may help reduce instances of late, missing, and inaccurate reports.
- Providing pesticide users with clear written guidance on pesticide use reporting requirements may help reduce the reporting issues noted during our audit.

Agricultural Commissioner management initiated action to address our findings. Improvements are planned to be completed by November 30, 2023.

We appreciate the cooperation and assistance extended by you and your staff during this audit.

cc: Honorable Matt LaVere, Chair, Board of Supervisors
Honorable Kelly Long, Vice Chair, Board of Supervisors
Honorable Jeff Gorell, Board of Supervisors
Honorable Janice S. Parvin, Board of Supervisors
Honorable Vianey Lopez, Board of Supervisors
Sevet Johnson, Psy.D., County Executive Officer

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Background

The Pesticide Use Enforcement (PUE) program is developed by the California Department of Pesticide Regulation (DPR) and executed at the local level in Ventura County (VC or County) by the Agricultural Commissioner (VCAC). The PUE program provides oversight for applicable pesticide use across the County, including:

- conducting field inspections and illegal pesticide sale investigations;
- issuing permits and operator identification numbers (OINs) for restricted and unrestricted pesticide use, respectively;
- approving/denying notices of intent (NOIs) to use restricted materials (e.g., sodium cyanide); and
- receiving pesticide use reports (PURs) from applicable pesticide users and transmitting PURs to DPR.

During calendar year 2021, VCAC issued more than 1,080 permits and OINs. VCAC also reviewed over 670 NOIs, and received and transmitted to DPR over 34,200 PURs for pesticide use within the County for calendar year 2021.

VCAC conducts the general administration of the PUE program by following guidelines outlined in the DPR's Pesticide Use Enforcement Program Standards Compendium (Compendium). The Compendium provides interpretations, directives, and expectations for enforcing pesticide use in conformance with the California Code of Regulations, Title 3 - Food and Agriculture (CCR). All county agricultural commissioners across California use the Compendium as generalized guidance on applying CCR regulations, including the requirements for issuing permits, approving NOIs, and submitting PURs.

Scope

Our overall objective was to determine whether the PUE program's oversight practices for the permitting and reporting of pesticide use were appropriate during the period of January 1 through December 31, 2021. Specifically, we determined whether:

- PUE policies and procedures for the issuance of permits and OINs and for the review of NOIs were sufficient to ensure compliance with DPR requirements;
- permit applications and NOIs were complete and contained adequate information/documentation in accordance with the CCR; and
- PURs were complete and contained all required information as outlined in the CCR.

The audit was performed in conformance with the *International Standards for the Professional Practice of Internal Auditing* promulgated by The Institute of Internal Auditors.

Findings

Overall, we found that the PUE program's oversight was adequate for many areas of the permitting and reporting of pesticide use. For example:

- Approved restricted material permit applications were complete and included the appropriate documentation in conformance with CCR requirements.
- OINs were appropriately issued and adequately documented.
- PUE program staff consistently reviewed NOIs for completeness.

Through our audit, we also determined that VCAC appeared to comply with applicable DPR regulations outlining the County's oversight responsibilities for the permitting and reporting of pesticide use. However, we identified concerns about the accuracy and reliability of pesticide use reporting within County boundaries due to the nature of use reporting as required by DPR. The DPR system allows pesticide users to report pesticide use directly into an online portal or provide use reports to VCAC for submission. VCAC then approves the reports submitted electronically and enters the reports provided by pesticide users into the portal to submit to DPR.

While DPR regulations outline reporting requirements for each type of pesticide user (e.g., growers, agricultural pest control businesses, and structural pest control operators), VCAC must rely on the honor system for users' self-reporting absent any other method provided by DPR. Additionally, the DPR regulations do not define review procedures for county agricultural commissioners to ensure pesticide users report as required. Our testing showed pervasive issues with reporting of pesticide use within the County, as explained in detail below. While determining the exact impact of untimely, inaccurate, or incomplete use reporting during the period under audit was not possible, our audit raised further questions regarding the reliability of Countywide pesticide use reporting to DPR.

We noted that VCAC relied entirely on the Compendium as guidance for pesticide use permitting and reporting, and no localized procedures for issuing permits and OINs or for reviewing NOIs and PURs existed. While we recognize that VCAC has met the County-level oversight obligations as required by DPR, we have identified areas of opportunity to improve the PUE program's effectiveness.

Following are details of the areas where improvements were needed. VCAC management initiated action in response to the audit as noted in the attachment.

1. Lack of Localized Policies and Procedures

The PUE program did not establish standard operating procedures specific to County operations. Instead, VCAC referred to the DPR Compendium as the guiding procedures for all processes related to the general administration of the PUE program. While the Compendium is the official instruction for pesticide use enforcement for all counties in California, the Compendium does not provide procedures specific to local operations. The lack of localized oversight procedures may have contributed to the findings below concerning the timeliness, completeness, and accuracy of PUR submissions. Formalizing local procedures will help ensure continued consistency in issuing permits/OINs and reviewing NOIs and PURs, and aid in onboarding new employees.

Recommendation. VCAC management should formalize local PUE policies and procedures, perhaps through the development of a handbook, manual, or checklist. The policies should include, at a minimum, the PUE program's procedures for the issuance of permits and OINs, review of NOIs and PURs, and educating permittees on reporting requirements.

2. Pesticide Use Reports (PURs)

VCAC could implement targeted procedures to help ensure the accurate and timely reporting of pesticide use. Through our testing, we noted a trend of late or missing PURs across all types of applicable pesticide users as well as concerns that PURs may not always be accurate. While VCAC's ability to ensure full reporting compliance by applicable pesticide users was limited, VCAC could leverage the information provided by pesticide users to help improve compliance.

2.01 Late PURs

VCAC could establish a process to identify late PUR submissions and address the issue directly with the pesticide users.

- According to CCR section (§) 6626, the timeline requirement for PUR submissions for pesticides used in production agriculture varies depending on who is applying the pesticides. Operators of the property which is producing an agricultural commodity (i.e., growers) must submit PURs by the 10th day of the month following the month in which the work was performed. Agricultural pest control businesses must submit PURs within 7 days after pesticide application.
- According to CCR §6627, structural pest control operators must submit PURs by the 10th day of the month following the month in which the work was performed.

Of the 204 PURs tested across all types of pesticide users described above, 67 (33%) were late, and we found that, on average, these PURs were late by 44 days. However, VCAC did not address late submissions with pesticide users. Late PUR submissions may result in inaccurate reporting to DPR, which could impact the accuracy of monthly and annual DPR pesticide use reporting.

Recommendation. VCAC management should implement procedures to periodically select a percentage of the total PURs submitted to verify that submissions are within DPR timeline requirements. Management should evaluate the results and discuss any discrepancies with the pesticide user. For regular pesticide reporters (i.e., agricultural pest control businesses and structural pest control operators), VCAC should consider imposing a fine for late PUR submissions in accordance with CCR §6130 to help elicit compliance.

2.02 Missing PURs

VCAC could establish procedures to identify missing PURs and address the issue with the pesticide users. If an agricultural pest control business or structural pest control operator does not perform any pest control work within the County's boundaries in any given month, the business/operator must submit a negative use report (i.e., essentially a zero PUR) by the 10th day of the following month as required by CCR §6628. Of the 6 agricultural pest control businesses and 10 structural pest control operators selected for testing, we noted that:

- 7 (10%) of the 72 PURs tested that should have been submitted by the selected agricultural pest control businesses could not be located and no negative use reports were submitted for those months.
- 36 (30%) of the 120 PURs tested that should have been submitted by the selected structural pest control operators could not be located and no negative use reports were submitted for those months.

Because businesses/operators did not always submit monthly PURs as required, VCAC could not confirm whether pesticides were used but not reported or whether no pesticides were used.

Recommendation. VCAC management should implement procedures to periodically select a percentage of the total agricultural and structural pest control businesses/operators' PUR submissions and verify that PURs were submitted each month. If a selected business/operator did not submit a PUR for the previous month, procedures should ensure that the business/operator submitted a negative use report to confirm no activity occurred. VCAC management should evaluate the results of the review and address any issues directly with the businesses/operators. VCAC should consider imposing a fine on businesses/operators for missing PUR submissions in accordance with CCR §6130 to help elicit compliance.

2.03 PUR Reconciliations

PUE program staff could perform cross-checks or reconciliations of NOIs against submitted PURs to help confirm whether reporting was complete and accurate. During our testing, we noted that restricted materials reported on PURs were not always supported with a related NOI, and we could not trace all NOIs to a submitted PUR. Specifically, of the 25 NOI-PUR reconciliations we performed, we found the following:

- 5 (20%) pesticide users did not submit a PUR, although the user submitted one or more NOIs during the selected month.
- 1 (4%) pesticide user reported more restricted material use on the monthly PUR than was approved for use on the related NOIs.

CCR §6434 requires pesticide users to notify county agricultural commissioners with an NOI at least 24 hours before using restricted materials. During our audit, we were informed that, because NOIs are used to forecast possible pesticide use over a short window of time, external circumstances (e.g., weather) may prevent the pesticide use from occurring as planned. As a result, NOIs and PURs may not always match. However, PUE program staff had not established a process to identify, investigate, or explain discrepancies between restricted materials reported on PURs and NOIs.

Recommendation. VCAC management should implement procedures to periodically reconcile NOIs and PURs to help ensure that restricted material reporting is accurate and complete and that restricted materials reported as used are properly authorized. A review of current staff's workload may be needed to determine whether additional PUE program positions are necessary to perform adequate monitoring.

3. Pesticide Use Reporting Education

Opportunities were available to better educate pesticide users on reporting requirements. Currently, PUE program staff verbally inform pesticide users of reporting requirements when individuals come into VCAC offices to apply for a permit or OIN. In addition to this, PUE program staff could provide individuals with written pesticide use reporting requirements and instructions on where further information can be found. For example, VCAC could consider providing multi-lingual instructions and printing the document on brightly colored paper to be more noticeable and make the document as helpful to users as possible. Providing users with reporting requirements in a format that can be easily referenced without requiring access to the Internet may help reduce the reporting issues we identified above.

Recommendation. VCAC management should provide clear written guidance to pesticide users on pesticide use reporting requirements.

Auditor's Evaluation of Management Action

We believe that management actions taken or planned, as noted in the attachment, were responsive to the audit findings. VCAC management planned to complete improvements by November 30, 2023.



Agricultural Commissioner/Sealer
Edmund E. Williams
Chief Deputy
Korinne M. Bell

March 13, 2023

Jeffrey S. Burgh, Auditor-Controller
Office of the Auditor-Controller
County of Ventura, California
800 S. Victoria Ave.
Ventura, CA 93003

**SUBJECT: AUDIT OF THE AGRICULTURAL COMMISSIONER'S OVERSIGHT OF
THE PERMITTING AND REPORTING OF PESTICIDE USE**

Dear Auditor-Controller Burgh:

Thank you for conducting your audit of the Agricultural Commissioner's oversight of the permitting and reporting of pesticide use. Overall, you found that the Pesticide Use Enforcement (PUE) program's oversight practices were adequate for the permitting and reporting of pesticide use; that permits and operator identification numbers were appropriately issued and adequately documented; and that PUE program staff consistently reviewed notices of intent to use restricted materials for completeness in accordance with the requirements of the California Department of Pesticide Regulation (DPR).

We appreciate the recommendations of areas to strengthen the PUE program's effectiveness. We do not characterize these measures as corrective actions as we are in compliance with and our PUE programs have been found to meet all of the requirements of the DPR. We agree that we can make our programs better and in that spirit we plan to implement your recommendations by November 30, 2023.

Specifically, pursuant to your recommendations:

1. To develop and establish standard operating procedures specific to County operations in addition to those established in the State's Compendiums for Pesticide Use Enforcement:
 - a. The Ventura County Agricultural Commissioner's Office (VCAC) will formalize PUE practices through the development of a handbook of procedures for the issuance of permits and Operator Identification Numbers (OINs), review of Notices of Intents (NOIs) and Pesticide Use Reports (PURs) and conduct outreach to pesticide users on record-keeping and reporting requirements. The handbook will detail processes and policies and include style manuals, references, and checklists.

2. To implement targeted procedures to help ensure the accurate and timely reporting of pesticide use. Through our testing, we noted a trend of late or missing PURs across all types of applicable pesticide users as well as concerns that PURs may not always be accurate:
 - a. VCAC will develop a schedule and process for systematic review of PURs to determine compliance with reporting requirements. VCAC already imposes fines per CCR §6130 for failure to report pesticide use on time. In fact, VCAC imposes more pesticide-related agricultural civil penalties than any other county in California. However, it is vital to avoid a punitive regime that discourages use reporting for fear of late penalties.
 - b. VCAC will develop a schedule and process to review a percentage of the pest control businesses' pesticide use reporting to verify that PURs were submitted each month. VCAC will respond with compliance interviews and penalties per CCR §6130 as needed.
 - c. VCAC will develop and implement procedures to regularly audit restricted material PURs to check for corresponding NOIs. Unlike pesticide use reporting, which is a minor (class C) violation by code, failure to submit an NOI is at least a moderate (class B) violation meriting a higher enforcement priority. VCAC will conduct a review of staff workload to determine whether additional PUE program positions are necessary to perform these audits.
3. To better educate pesticide users on reporting VCAC management should provide clear written guidance to pesticide users:
 - a. VCAC acknowledges the benefits of more outreach to pesticide users. VCAC will develop an outreach plan covering the requirements of pesticide use reporting. The program will include notices on the VCAC website and social media, handouts, regional tailgate events, and improved guidance for office staff when interacting with growers. VCAC will conduct a review of staff workload to determine whether additional PUE program positions are necessary to develop and conduct this outreach.

We believe that management actions that will be taken to improve our PUE programs are responsive to the audit findings and plan to complete these measures by November 30, 2023.

Sincerely,



Edmund E. Williams
Agricultural Commissioner/Sealer