

The Cooperative Agreement between the California Department of Public Health and Local Vector Control Agencies

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History of the Cooperative Agreement

The early 1960s was witness to a dramatic rise in popular and scientific concern about the effects that pesticides might have on human health and the environment. Governmental regulations over the use of pesticides increased in response to these concerns. By the middle of the decade, it was becoming clear that the beneficial use of pesticides to control vectors was in jeopardy as local public health agencies were finding it difficult to comply with increasingly stringent government regulations. In protecting the public from the dangers of pesticides (both real and perceived), the public was being placed at increased risk from disease-causing pathogens transmitted by mosquitoes and other vectors.

During the mid-1960s, California public health leaders began seeking a means to comply with state and federal regulations regarding the use of pesticides while also protecting the judicious use of pesticides to control disease vectors and pests. In 1967, the California State Board of Health adopted a policy statement entitled “Recommended Standards Relating to the Use of Pesticides in Vector Control.” This policy statement stressed that pesticide use should be limited to those vector populations which cannot be controlled practicably by other means. The State Board of Health clearly recognized the need for the evolution of vector control from a reliance on pesticide application to a program of integrated pest management (IPM) that included source reduction and public education in addition to the judicious use of pesticides. The standards presented in this policy statement were compatible with the pesticide use requirements of the California Department of Agriculture and were intended to serve as conditions for future cooperative agreements between the California Department of Public Health (CDPH) and local vector control agencies.

On the recommendation of the State Board of Health, CDPH published a document entitled “Acceptable Pesticides and Their Use by California Mosquito Abatement Districts and Other Official Mosquito Control Agencies.” This document included an “official list of pesticides” to be used for vector control in California and specified how these pesticides were to be used.

Like the State Board of Health, CDPH emphasized the use of preventive measures directed toward the elimination of mosquito sources while also recognizing that the judicious use of pesticides was needed for mosquito control agencies to meet their legal requirement to protect the public from disease-causing mosquitoes and other vectors. This document also directed agencies to apply specific principles of pesticide use to protect the health of humans, domestic animals, wildlife, and other non-target organisms. These principles included precision targeting and timing of pesticide applications to specific areas producing or harboring vectors, along with the proper

formulation and dosage of pesticides to minimize non-target effects and protect public health.

Concurrent with these publications, state and local public health leaders made convincing arguments to the Department of Agriculture that pesticides used for vector control were critical to protect the public from vector-borne diseases and furthermore, that these pesticides posed little or no significant risk to human health or the environment when properly used per the product label at low dosage rates typical of vector control operations. The Department of Agriculture agreed and amended its regulations to allow local agencies working cooperatively with CDPH to apply pesticides for vector control that were defined as “injurious materials.”

The first “Cooperative Agreement” between CDPH and local vector control agencies was established in 1967. The purpose of this agreement was to:

“Provide for the protection of the public health and comfort through a coordinated program of safe, effective, and economical use of pesticides in the control of mosquitoes, by qualified local governmental mosquito control agencies organized and operated in accordance with provisions of the California Health and Safety Code.”

By signing this cooperative agreement, local vector control agencies (“signatory agencies”) agreed to 1) use those pesticides listed on the CDPH “official list of pesticides” only in the manner specified, 2) maintain pesticide use reports for review by appropriate governmental agencies, and 3) ensure that pesticide use did not result in harmful residues on agricultural products. In return, signatory agencies were authorized to use pesticides listed on the CDPH “official list of pesticides” even though these pesticides may be defined as “injurious materials” by the Department of Agriculture. Signatory agencies were also granted significant exemptions from the legal requirements for property owner consent and notification of persons on property to be treated prior to a pesticide application.

During the first year of the cooperative agreement, 49 local vector control agencies signed this agreement with CDPH (Womeldorf 1976), and by 1969, nearly all local vector control agencies throughout California had signed a cooperative agreement. By 1974, the number of signatory agencies had increased to 73 and CDPH included in the cooperative agreement a training and certification program for pesticide applicators, as required by the 1972 amendments to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA, as amended) (Womeldorf 1976).

From 1974 through 1991, revisions to the cooperative agreement were coordinated between CDPH (then the Department of Health 1974-77, and Department of Health Services 1978-91), the Department of (now) Food and Agriculture (CDFA), the Department of (now) Fish and Wildlife, and signatory agencies involved in vector control. In 1991, the California Department of Pesticide Regulation (DPR) was formed, and all pesticide-related statutory authority was transferred to this Department from CDFA (DPR 2001). The local enforcement of pesticide use was retained by the County Agricultural Commissioners. To protect the benefits of the cooperative agreement, and in recognition of the shared responsibility of CDPH, DPR, and the County Agricultural Commissioners to protect human health, these three agencies signed a memorandum of understanding (MOU) to address the use of pesticides in vector control. The current

MOU (Anon 2008) assures that each agency can exercise appropriate legal authority to protect public health while eliminating any duplication of effort. Principles of agreement in the MOU identify the roles of the three signatory agencies with respect to pesticide use and reporting, registration of public health pesticides, certification of public health pesticide applicators, and reporting of suspected adverse effects of pesticides on non-target organisms. This MOU shifts some regulatory authority for pesticide use by local vector control agencies from DPR to CDPH and serves as the basis for the cooperative agreement between CDPH and vector control agencies, referred to below as “signatory agencies” (also known as “cooperating” agencies).

Changes in Federal and State statutes coupled with changing Departmental responsibilities and relationships have resulted in some significant changes from the first cooperative agreement. For example, CDPH no longer publishes an “official list of pesticides” for use in vector control. Pesticides used for vector control must now be labeled for this use and must be used in accordance with the product labeling.

Requirements Listed in the Cooperative Agreement

Signatory agencies must agree to:

- 1) Calibrate all application equipment using acceptable techniques before using, and to maintain calibration records for review by the County Agricultural Commissioner.
- 2) To seek the assistance of the County Agricultural Commissioner in the interpretation of pesticide labeling.
- 3) To maintain for at least two years for review by the County Agricultural Commissioner a record of each pesticide application showing the target vector, the specific location treated, the size of the source, the formulations and amount of pesticide used, the method and equipment used, the type of habitat treated, the date of the application, and the name of the applicator(s).
- 4) To submit to the County Agricultural Commissioner each month a Pesticide Use Report, electronically or on Department of Pesticide Regulation form PR-ENF-060. The report shall include the manufacturer and product name, the EPA registration number from the label, the amount of each pesticide used, the number of applications of each pesticide, and the total number of applications, per county, per month.
- 5) To report to the County Agricultural Commissioner and the California Department of Public Health, in a manner specified, any conspicuous or suspected adverse effects upon humans, domestic animals and other non-target organisms, or property from pesticide applications.
- 6) To require appropriate certification of its employees by the California Department of Public Health to verify their competence in using pesticides to control pest and vector organisms, and to maintain continuing education unit information for those employees participating in continuing education.

- 7) To be inspected by the County Agricultural Commissioner on a regular basis to ensure that local agency activities comply with state laws and regulations relating to pesticide use.

Agencies signatory to the cooperative agreement are reviewed biannually by CDPH to ensure compliance with the requirements listed above. These requirements meet the legislative intent for providing vector control agencies with several important exemptions from California laws and regulations (described below) and help ensure that all applicable state and federal pesticide use requirements are met.

Benefits of the Cooperative Agreement

Under the inter-Departmental MOU, CDPH agreed to continue oversight of the examination, certification, and continuing education of employees of local vector control agencies who handle, use, or supervise the use of pesticides in public health programs for the management of vectors. A local vector control agency may not enter into a cooperative agreement with CDPH pursuant to Health and Safety Code Section 116180 unless agency employees responsible for the application of pesticides have received pesticide applicator certification from CDPH. This program ensures that employees of signatory agencies are properly trained in the safe application of pesticides and that they receive continuing education that meets all state and federal standards. Agency personnel benefit by receiving continuing education that is targeted toward the safe handling and application of pesticides used in public health vector control operations in California. Approximately 900 employees at more than 70 signatory agencies hold a pesticide applicator certification from CDPH (CDPH 2022).

In addition to the benefit of a targeted continuing education program, signatory agencies also receive several significant exemptions to state laws and regulations that would normally apply to any other person or agency involved in the application of pesticides. These exemptions are granted due to the unique public health role of local vector control agencies. Furthermore, pesticides used by these agencies pose little or no significant risk to human health or the environment when properly used per the product label in targeted control operations at low dosage rates typical of mosquito and vector control operations (Rose 2001).

Exemptions for signatory agencies can be found in various statutory codes (Education, Food and Agricultural, and Health and Safety) as well as in Title 3 of the California Code of Regulations (3CCR).

The following are exemptions currently granted to signatory agencies:

- **Education Code, Section 17613.** Signatory agencies are exempted from the notification and posting requirements for pesticide applications at a school facility (Section 17612). School districts do not have to provide annual or pre-application notification to parents and staff of an intended pesticide application by a signatory agency. School districts are also not required to post warning signs at school facilities that are treated by a signatory agency.

- **Food and Agricultural Code, Section 11408(e).** The use of pesticides by a signatory agency is excluded from the definition of “agricultural use”. As a result of this exclusion, signatory agency personnel are not required to:
 - Hold an agricultural pest control advisor license (Section 11410, 12001)
 - Register with the County Agricultural Commissioner (Section 12002)
 - Place pesticide use recommendations in writing (Sections 11411, 12003)
 - Obtain an operator identification number from the County Agricultural Commissioner (3CCR 6622)
 - Maintain pesticide use records in accordance with 3CCR 6624 and submit a monthly summary of pesticide use report to the agricultural commissioner as per 3CCR 6627. **Note:** The cooperative agreement requires the maintenance of pesticide use records and the submission of monthly pesticide use reports to the County Agricultural Commissioner, thereby annulling this exemption.
- **Food and Agricultural Code, Section 12978.7 (f)(1) and (3).** Exempts signatory agencies from the prohibitions in Section 12978.7 for use of pesticide products containing diphacinone or second-generation anticoagulant rodenticides (i.e., brodifacoum, bromadiolone, difenacoum, difethialone).
- **Food and Agricultural Code, Section 13187.** Signatory agencies are exempt from requirements to complete and submit school pesticide use forms and from prior notification requirements when applying pesticides at a child day care facility (Section 13186). Furthermore, additional training requirements specific to school sites (Section 13186.5) are exempted.
- **3CCR 6400(c)(2) and 6400(e). Restricted Materials.** Exempts certain pesticides used by signatory agencies from being designated as “restricted materials” by the Director of the Department of Pesticide Regulation. This exemption precludes the requirement to have a permit issued by the agricultural commissioner for each use of these pesticides (3CCR 6420).
- **3CCR 6620. Vector Control Exemption.** Exempts signatory agencies from 3CCR 6614 (b)(1) (Protection of Persons, Animals, and Property), 6616 (Consent to Apply), and 6618 (Notice). Signatory agencies may therefore apply pesticides registered for the purpose of vector control in residential areas even though there may be a reasonable possibility of contamination to non-target persons or property. In addition, signatory agencies are not required to get property owner consent or provide notification to a property operator prior to a pesticide application. These exemptions are undoubtedly the most important benefit provided to vector control agencies that are bound by the cooperative agreement and reflect the general understanding that vector control operations protect public health and that rapid control or suppression of vectors over wide geographic areas is essential to achieve this protection. Requiring prior consent or advance notice before applying a public health pesticide would be impractical and could limit the efficacy of vector control operations.

- **3CCR 6760. Employer Responsibility and Exceptions.** Signatory agencies are exempted from 3CCR 6760-6776 (Article 3: Field Worker Safety) when conducting area-wide pesticide applications. Signatory agencies and contractors of those agencies are not required to:
 - Provide hazard communication information to agricultural field workers (3CCR 6761)
 - Ensure that persons are not present in areas to be treated (3CCR 6762)
 - Provide training in the areas of pesticide exposure and personal rights to agricultural field workers (3CCR 6764)
 - Identify a nearby emergency medical facility that will treat workers exposed to pesticides (3CCR 6766)
 - Provide a decontamination facility for agricultural field workers that is within ¼ mile of the pesticide application area (3CCR 6768)
 - Prevent re-entry of persons into a treated field (3CCR 6770, 6771, 6772, 6774)
 - Post warning signs around treated fields (3CCR 6776)
- **3CCR 6972. Exemptions from Surface Water Protection in Outdoor Nonagricultural Settings.** Signatory agencies making pesticide applications to receiving waters for which a permit has been issued under the Statewide General National Pollutant Discharge Elimination System (NPDES) for Pesticide Discharges to Waters of the U.S. from Vector Control Applications are exempt from the prohibitions and requirements for specific pesticide application methods imposed by 3CCR 6970.
- **3CCR 6981. Vector Control Exemption.** Exempts signatory agencies from 3CCR 6980-6984 (Article 1: Protection of Bees) when pesticides are diluted in one-half gallon of water or more per acre. Signatory agencies are not required to provide prior notification of pesticide application to beekeepers with apiaries within one mile of the application site (Section 6983). Signatory agencies are also not required to provide notice to the agricultural commissioner prior to the application of pesticides in a legally defined citrus/bee protection area (Section 6984). **Note:** The dilution requirement in 3CCR 6981 does not apply to current vector control products or application methods. Clarification on the applicability of this exemption is being sought from DPR.

In addition to the exemptions listed above, vector control technicians certified by CDPH are eligible for an unmanned pest control aircraft pilot's certificate, allowing the application of public health pesticides via an unmanned pest control aircraft (Food and Agricultural Code Section 11902.5).

In summary, the cooperative agreement between CDPH and local vector control agencies has provided signatory agencies with the flexibility to perform their legally mandated role to control public health vectors while ensuring that all state and federal requirements regarding the application of pesticides are met.

References

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