

Common Pesticide Use Enforcement Violations in Mariposa County

By Mark Conover
Senior Agricultural Inspector
Mariposa County Department of Agriculture

What is a PUE violation?

- Webster definition: A violation is a breach, infringement, or transgression, as of a law, rule, promise, etc.
- In DPR-speak, a violation is a breach of the Food and Agricultural Code or the California Code of Regulations
- A violation will usually result in a NOV (Notice of Violation)

101- 815268

A. Person / Firm Information

FIRM / PERSON INSPECTED Orkin Pest Control	TELEPHONE NUMBER 559-253-7110	COUNTY NAME MARIPOSA
MAILING ADDRESS 2590 N. Grove Industrial Drive #112	PERMIT/OPERATOR ID NUMBER -----	VIOLATION NOTICE NUMBER 22-12-0727-01
CITY Fresno	STATE CA	VIOLATION DATE/TIME July 25, 2012
	ZIP CODE 93727	

B. License Information

☐ Agricultural Pest Control Adviser	☒ SPC Business Registration	☐ Qualified Applicator License	LICENSE / CERTIFICATE # BR 5258 / FR 42711
☐ Pest Control Business	☐ Structural Pest Control Operator	☐ Maintenance Gardener	
☐ Pest Control Aircraft Pilot	☒ Field Representative	☐ Private Applicator	
☐ Pest Control Dealer	☐ Qualified Applicator Certificate	☐ Labor Contractor	
			☐ Other _____ ☐ Unlicensed
			☐ Not Required

C. Violation Location

ADDRESS/PROPERTY LOCATION Mariposa County	CITY Mariposa
---	-------------------------

D. Section(s) Violated

Food and Agricultural Code (FAC)	
California Code of Regulations (CCR)	6627 (a)
Business and Professions Code (BPC)	
Labor Code (LC)	

E. Violation Narrative - When additional space is required, continue on Inspection Report / VN Supplement, PR-ENF-111.

The Fresno branch of Orkin Pest Control registered as a Structural Pest Control Operator in Mariposa County on December 27, 2011.

Section 6627 (a) of the CCRs states that a summary of the monthly use of pesticides shall be reported to the commissioner by the 10th day of the month following the month in which the work is performed. If the report is mailed, the postmark shall be the date of delivery.

On July 25, 2012, Mariposa County Department of Agriculture received a pesticide use report for the month of June, 2012, from the Fresno branch of Orkin Pest Control. The envelope containing the report was postmarked July 24, 2012.

LATE USE REPORT

F. Cease and Desist Order - When additional space is required, continue on Inspection Report / VN Supplement, PR-ENF-111.

You are ordered to cease and desist:

Pursuant to Food and Agricultural Code Section: (Check one box) ☐ 11737 ☐ 11896 ☐ 11897 ☐ 13101 ☐ 13102

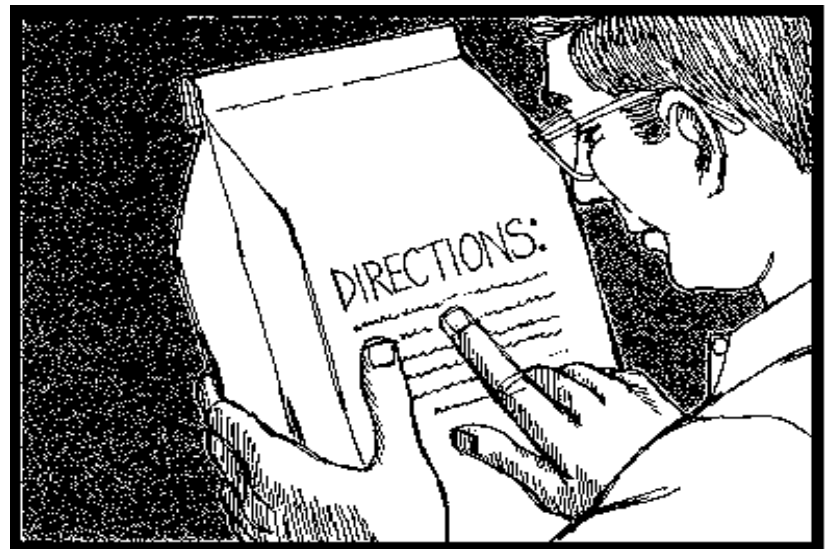
G. Notice

This information gives notice that a violation of statutes or regulations pertaining to Pesticides and Pest Control Operations or a violation of the Business and Professions Code pertaining to Structural Pest Control or a violation of the Labor Code pertaining to Farm Labor Contractors has occurred. Violations of this nature may subject the violator to further action as prescribed by law.

H. Notification Information - The "Notified Person's Signature" is not an admission of guilt or a promise to appear (citation).

NOTIFIED PERSON'S PRINTED NAME Randy Clarkson	TITLE Branch 2,3 FR 42711	SIGNATURE Notified by mail	DATE 7-27-12
ENFORCING OFFICER'S PRINTED NAME Mark Conover	TITLE Sr. Inspector	SIGNATURE <i>Mark Conover</i>	DATE 7-27-12
ISSUING AGENCY Mariposa County Department of Agriculture			DATE NOTICE ISSUED 7-27-12
NOTICE DELIVERED TO RESPONSIBLE PERSON: ☐ In Person ☐ Fax # _____ ☐ Certified Mail # _____ ☒ Regular Mail ☐ Other _____			DATE DELIVERED 7-27-12

- Pesticide label is the main method of communication between a pesticide manufacturer and pesticide users.
- Vast majority of pesticide violations occurs because the applicator has not read or does not understand the label.



**"It is a violation of Federal law to use
this product in a manner inconsistent
with its labeling."**

THE LABEL IS

THE LAW!

- THE LABEL IS THE LAW--Any deviation from instructions, requirements, or prohibitions of the registered labeling concerning storage, handling, or use is a violation of federal (and state) law.
- Not reading the label or understanding the instructions can cause all manner of problems
- When do you need to read the label?
 - Before you buy a pesticide
 - Before you use a pesticide
 - After you use a pesticide

THE TEN MOST UNWANTED

- So, what are the most common pesticide violations in Mariposa County? What common mistakes will get you in trouble?



- #10--Drift: Off-target deposition of pesticide residues at the time of application.



WHAT CAUSES DRIFT?

- Windy conditions
- Temperature inversions
- Spraying on really hot days
- Spray droplet size too small
- Using the wrong pesticide formulation
- Operator error
- All of the above

Immediate Impact of Drift

- Fieldworker illness in adjoining fields
- Injury or illness in passers-by or even to children on school buses or joggers
- Bee mortality — destruction of bees and/or hives
- Off-target plants/crops inadvertently sprayed

Long-lasting Impact of Drift

- Contamination of the environment
- Organic growers can lose crop
- Property destruction or loss of use
- Pesticide illness and medical expenses
- Notice of Violation
- Fines (Agricultural Civil Penalties)
- Lawsuits

#9--INCORRECT COMMODITY

VII. Crop-Specific Information

Corn

Tank Mixes

Laddok S-12 + Atrazine

Laddok S-12: 1.33-2.33 pints per acre

Atrazine: 0.75-1 pound per acre

Oil Concentrate: 1 pint per acre

Adding atrazine will provide residual weed control and suppress giant, green, and yellow foxtail. Atrazine products compatible with Laddok S-12 include AAtrex® 4L and AAtrex® Nite-O herbicides as well as other similar generic formulations containing atrazine.

Table 5. Tank Mix Rates for Laddok S-12 + Atrazine

Laddok S-12	Atrazine ^a
1.33 pints per acre	1 pound per acre
1.67 pints per acre	1 pound per acre
2.33 pints per acre	0.75 pound per acre

^a See Section VI, General Restrictions and Limitations for maximum amounts of atrazine allowable per season.

SWEET CORN:

Consult your local agricultural extension specialist for information on sweet corn varieties that are tolerant to this tank mix.

Laddok S-12 + Banvel®

Laddok S-12: 1.33-2.33 pints per acre

Banvel: up to 16 ounces (0.5 pound a.i.) per acre

UAN Solution: 4 pints per acre

or AMS: 2.5 pounds per acre

For use on field corn only. This tank mix may be applied for additional or improved control of bindweed (field and hedge), Canada thistle, hairyvine milkweed, common lambsquarters, morningglories, pigweed (red-root and smooth), ragweed (common and giant), waterhemp (common and tall), and wild sunflower.

Tank Mix Specific Restrictions and Limitations

Do not add other additives to this tank mix.

Follow the application procedures on the Banvel label if applying near sensitive crops.

Do not apply this tank mix at more than 40 psi.

Laddok S-12 + Bladex® 90 DF

Laddok S-12: 1.33-2.33 pints per acre

Bladex: 1.67 pounds per acre

For use on field and silage corn only to control major troublesome broadleaf weeds and small annual grasses and to reduce the potential triazine carryover into rotational crops. Annual grasses controlled by a Laddok S-12 + Bladex 90 DF tank mix include: crabgrass, fall panicum, giant foxtail, goosegrass, green foxtail, sickgrass (Indian lovegrass), witchgrass, and yellow foxtail. Refer to Table 1 for rate and timing for

What do we mean by incorrect commodity?

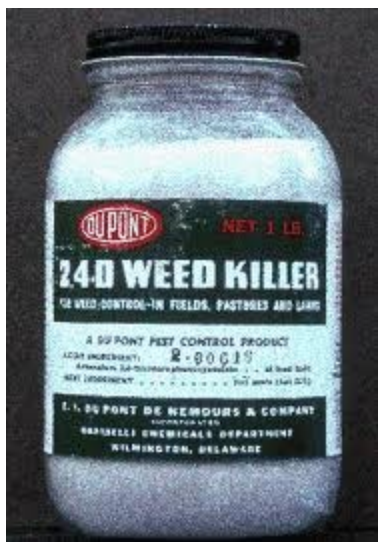
- Pesticide applied to commodity not specifically listed on the product label.
- Pesticide is not registered for use on that commodity

IMMEDIATE IMPACT OF INCORRECT COMMODITY

- No residue tolerance for that pesticide for that crop possible; harvest may not take place or crop may need to be destroyed
- Unintentional results
- Notice of Violation from CAC
- Probable Civil Penalty

#8--IMPROPER DISPOSAL OF USED CONTAINERS

- Used containers, unrinsed and thrown into the trash (or worse)



Not in California, fortunately



CONTAINER DISPOSAL INSTRUCTIONS

- Where do we find detailed instructions for disposing of used containers?
- On the product label

STORAGE AND DISPOSAL

Do not contaminate water, food, or feed by storage and disposal.

Pesticide Storage

Store in a cool, dry area under lock and key. Post as a pesticide storage area. Always store pesticides in the original container. Store away from food, pet food, feed, seed, fertilizers, and veterinary supplies. Place liquid formulations on lower shelves and dry formulations above.

Pesticide Disposal

Wastes resulting from the use of this product must be disposed of on site or at an approved waste disposal facility.

Container Handling

Nonrefillable container. Do not reuse or refill this container. Triple rinse container (or equivalent) promptly after emptying. Triple rinse as follows: Empty the remaining contents into application equipment or a mix tank and drain for 10 seconds after the flow begins to drip. Fill the container $\frac{1}{4}$ full with water and recap. Shake for 10 seconds. Pour rinsate into application equipment or a mix tank or store rinsate for later use or disposal. Drain for 10 seconds after the flow begins to drip. Repeat this procedure two more times. Then offer for recycling if available, or puncture and dispose of in a sanitary landfill or by incineration, or if allowed by state and local authorities, by burning. If burned, stay out of smoke.

GENERAL REQUIREMENTS FOR CONTAINER DISPOSAL

- Triple rinse the container, with the rinsate going into the application equipment as part of the application material
- Puncture container to prevent re-use
- Dispose of container in landfill

#7—IMPROPER CLEANING OF APPLICATION EQUIPMENT

- Contaminated application equipment



IMMEDIATE IMPACT?

- What can happen if the equipment isn't clean?
- Worker exposure to pesticide concentrate, resulting in illness/injury
- A trip to the hospital
- Lost work time
- Notice of Violation from the CAC

#6—APPROPRIATE PRODUCTS

- Licensed pest control dealers have a responsibility to sell or deliver products for use consistent with the labeling
- Dealers are supposed to consult grower RM permits and OLDNs to confirm that the permit commodities match those listed on the pesticide labels

IMMEDIATE IMPACT— APPROPRIATE PRODUCTS

- Grower/applicator applies pesticide not labeled for the commodity
- Possible no tolerance for the pesticide on that commodity = no harvest or crop destruction
- Notices of Violation to both grower and pesticide dealer
- Fines (Agricultural Civil Penalties)

#5—UNATTENDED PESTICIDES

- Each person who controls the use of any property or premises, including vehicles, is responsible for all containers which hold or have held a pesticide
- Pesticides must be secured so as to avoid contact with any unauthorized persons.



POTENTIAL IMPACT OF UNATTENDED PESTICIDES

- Hazard to: Persons, especially children
- Animals, including bees
- Food, Feed, Crops
- Property, including wells and wellheads
- Environment, including streams and waterways
- Pesticides are expensive, and have been known to walk away from their owners
- Notice of Violation, potential fines

#4—INCORRECT RATE

- Rates are listed on the product label
- You must never use more than the stated label rate, with certain exceptions
- You can use less than the label rate, as long as the decreased rate is not prohibited by the label

IMMEDIATE IMPACT OF USING INCORRECT RATE

- High Rate: Unintended results, such as excessive kill, elimination of wrong target pest, burn back of vegetation, contamination of the environment
- Low rate: A repeated application is possible, increasing the cost of the application; target resistance

#3 INCORRECT OR INCOMPLETE NOTICE OF INTENT (NOI)

- NOIs shall be submitted with the correct information

What's Wrong With This?

Notice of Intent

Report Status: Ok

Submitted to County: 5/25/2012 3:50:55 PM

Submittal Status: Submitted to County

Permittee/Permit Operator BUIRCH, ROBERT & TINA					Operator ID/Permit Number 2200165		Document number WEB126679567	
County 22 Mariposa County Agricultural Commissioner		Section 12	Township 05S	Range 17E	Meridian M	App Method/Fume Code G		Commercial Applicator (if any) BUIRCH, ROBERT & TINA P.O. BOX 1559
Site Identification Number RTB-01		Site District (if Applicable)				Planted Area - Units 7 ACRES		MARIPOSA CA 95336
Location 6155 HWY 49 N				Block ID (if applicable)		Nursery No		
Date/Time of Proposed Application 5/26/2012 8:00 AM			Proposed Treated Area - Units 4 ACRES			Commodity Treated 30 LANDSCAPE MAINT		
Days Re-entry		Days Pre-harvest		Applied/Supervised By		Reviewed By - Date/Time Mark Conover - 5/25/2012 4:32 PM		
Approved/Denied Approved		Environmental Changes/Comments						

Chem #	Product	Label #	Rate	Dilution	Total Product Used	Target Pest
1	NUFARM WEEDONE LV6 EC BROADLEAF HERBICIDE	71368-11-AA	2.75 Ounce / 1 MISCELLANEOUS K UNITS			BROADLEAF WEEDS

IMMEDIATE IMPACT-INCORRECT OR INCOMPLETE NOI

- Denial of pesticide application
- Correction and re-issuance of NOI
- Increased timeframe which could be crucial if time is of the essence in the application
- Lots of phone calls
- Notice of Violation
- Hurt feelings

#2—NOT REGISTERING/NO PERMIT PRIOR TO APPLICATION

- All commercial applicators must register with the county agricultural commissioner prior to doing any work;
- RM Permit or OLDN must be current before you can legally purchase or use pesticides
- All RM permits and OLDNs expire at the end of the calendar year
- So Plan Ahead before you Plan to Spray!

IMMEDIATE IMPACT OF NOT REGISTERING

- Notice of Violation from CAC
- Probable Civil Penalty
- Prohibition by CAC of working in county possible (worst case scenario)

IMMEDIATE IMPACT OF NO PERMIT

- Bad dog!
- Notice of Violation from CAC
- Probable Civil Penalty



#1—LATE PESTICIDE USE REPORTS

- Late Pesticide Use Reports are the most common violation. The California Code of Regulations states that pesticide use reports are due by the 10th of the month following the month of the application.
- Each person applying agricultural or structural pesticides needs to report use to the CAC—NO EXCEPTIONS!

Late Pesticide Use Reports

- Pesticide use reports that are mailed must be postmarked by the 10th of the month following the month of application
- Reports submitted electronically or by fax are late if received after the 10th of the month following the month of application

IMMEDIATE IMPACTS OF LATE PESTICIDE USE REPORTING

- Notice of Violation from CAC
- Civil Penalty for repeated violations
- A long prison sentence



Most Common Violations Statewide?

• Statewide Summary 2009 – 2011	Prepared September 2012
• Agricultural Operations:	<u>COMPLIANCE</u>
• Follows Labeling and/or Permit Conditions	97.68%
• Regulations - Personal Protective Equipment	95.46%
• Respiratory Protection	95.06%
• Handler Training	96.78%
• Emergency Medical Care, Posting	95.60%
• Pest Control Business / Equipment Registered	96.56%
• Handler Decontamination Facilities	97.62%
• Service Container Labeling	91.39%
• Labeling Available at Use Site	97.48%
• Hazard Communication / Field Workers	92.23%
• Application Specific Information / Field Workers	91.80%
• Equipment Identified - PCB	97.60%
• Hazard Communication / Handler	95.81%
• Pesticide Use Records Kept / 2 years	96.74%
• Pesticide Use Reports Submitted	95.59%
• (Information compiled by California Department of Pesticide Regulation)	

MORE DATA

- **Annual Statewide Pesticide Enforcement Program Statistics 2011**
- Operator identification numbers issued/ Amended 114,165
- Restricted material permits issued/ Amended 130,861
- Permits denied 1,184
- Multi-year permits 13,261
- Total permitted sites 268,936
- Notices of intent (NOIs) reviewed 132,905
- NOIs assessed (Pre-application site inspections) 8,014
- NOIs denied 1,254
- Pounds of pesticide applied (active ingredient) 185,801,122
- Number of agricultural applications 2,413,527
- Number of non-agricultural applications 17,150,046
- Number of all inspections 27,909 (0.14%)