

Audit of the Hawaii Department of Agriculture and Biosecurity's Pesticide Complaint Program

U.S. Environmental Protection Agency, Region 9

San Francisco, CA

Final Report

May 15, 2026

I. Executive Summary

EPA Region 9 (R9) conducted an in-depth audit of the Hawaii Department of Agriculture and Biosecurity's (DAB) pesticide complaint program to:

- A. Determine if the state's complaint tracking system is adequate when reviewed against the criteria laid out in the FIFRA State Primacy Enforcement Responsibilities: Final Interpretive Rule; and
- B. Evaluate whether follow-up investigations are being done timely and efficiently.

This audit was part of a larger concurrent effort to look at the pesticide complaint programs in all states within R9, which includes California, Arizona, Nevada, and Hawaii.

R9 made its assessments of the adequacy of the state's complaint tracking system by evaluating DAB's response to five questions. DAB's responses can be found in section V. Evaluation. Any questions or concerns identified in the review of DAB's response to the audit questions were addressed as follow-up questions sent to DAB's Acting Management and Case Development section. The follow-up questions asked by R9 and responses from DAB can also be found in section V.

R9 made its evaluation of whether DAB's complaint follow-up investigations are timely and efficient by selecting ten complaint investigation files at random for an in-depth review. While reviewing the investigation files, R9 used a set of benchmark questions to help guide the analysis in a consistent manner. The responses can be found in section VI. Assessment.

For each complaint file reviewed, EPA Region 9's Enforcement and Compliance Assurance Division (ECAD) staff did the following:

- a. Reviewed the entire investigation report to assess the thoroughness and adequacy of the investigation.
- b. Assessed the timeliness of initiating and completing the investigation.
- c. Assessed the state's adherence to its own Standard Operating Procedures for complaint follow-up.
- d. Reviewed follow-up communication with the complainant and applicator as appropriate.
- e. Communicated with DAB during the review process to ensure all information provided was complete and to ask follow-up questions as necessary.

Findings and recommendations made by R9 can be found in section VIII. Findings and Recommendations. In this section, R9 commended DAB for meeting or exceeding expectations in several areas. DAB responded quickly to pesticide complaints, followed up on all leads,

interviewed all witnesses involved when possible, and collected samples, as necessary, when possible. However, in section VIII, R9 also identified areas for improvement.

DAB provided responses to EPA’s findings and recommendations in section VIII., via email and a follow-up phone call. DAB expressed commitment to continue working with R9 and promptly addressed a portion of EPA Region 9’s findings by issuing a *Memo* to their staff.

II. Introduction

The U.S. Environmental Protection Agency, Region 9 (EPA), conducted an audit of the Hawaii Department of Agriculture and Biosecurity’s (DAB) pesticide complaint program. This audit was part of a larger concurrent effort to look at how authorized pesticide programs process complaints in all states within EPA Region 9, which includes California, Arizona, Nevada, and Hawai’i. Separate reports were written for each state within EPA Region 9.

III. Background

The [2022-2025 FIFRA Cooperative Agreement Guidance](#) requires state grantees, under Activity 01.00.03, to “Respond to pesticide inquiries, concerns, tips, and complaints from the public.”

The [FIFRA State Primacy Enforcement Responsibilities: Final Interpretive Rule](#) (January 5, 1983) (hereafter referred to as the “Final Interpretive Rule”), which clarifies requirements for states to obtain and maintain primacy, along with oversight responsibilities by the EPA under FIFRA Sections 26 and 27, says that states must show that they have adopted “adequate procedures” for implementing/enforcing their regulatory authority (Final Interpretive Rule, 48 Fed. Reg. 408). One of the procedures is “processing complaints”, where states “must implement a system for quickly processing and reacting to complaints or other information indicating a violation” (Final Interpretive Rule, 48 Fed. Reg. 409). Table 1 describes the five criteria for an adequate referral system.

Table 1. An adequate pesticide complaint referral system should contain the following five criteria.

a. A method for funneling complaints to a central organizational unit for review.
b. A logging system to record the receipt of the complaint and to track the stages of the follow-up investigation.
c. A mechanism for referring the complaint to the appropriate investigative personnel.
d. A system for allowing a rapid determination of the status of the case.
e. A procedure for notifying citizens of the ultimate disposition of their complaints.

In addition, the Final Interpretive Rule requires the EPA to examine whether complaints have been processed “quickly and efficiently” (Final Interpretive Rule, 48 Fed. Reg. 410), without

defining the term “quickly”. For the purposes of this audit, we substituted the word “timely” in place of “quickly”.

IV. Audit Overview

The EPA initiated this audit to evaluate the state’s pesticide complaint tracking and follow-up investigation process. The audit consisted of two steps:

- A. Determining if the state’s complaint tracking system is adequate; and
- B. Evaluating how complaints are being processed and whether it’s being done timely and efficiently.

For step A, the EPA requested that the state provide responses to the following questions via email:

- 1. What is the system/process used to funnel complaints for further review? Who initially receives complaints for further review? Is there a specific organizational unit?
- 2. What is the system/process used to log complaints and to track the stages of the investigation?
- 3. What is the system/process used to refer complaints for further investigation?
- 4. What is the system/process used to determine the progress of the investigation or case? How long does it typically take to make this determination when asked for a status update?
- 5. What is the system/process for notifying the complaint submitter of the end result to their complaint?
- 6. Please provide a generalized example describing the complaint follow-up process from cradle to grave (i.e. initial receipt to investigation to case close out).

The responses to these questions are listed below in section “V. Evaluation”.

For step B, the EPA began by requesting that the state provide the following information:

- 1. Complaint response Standard Operating Procedure (SOP) documents.
- 2. A list of all pesticide use complaints (both agriculture and non-agriculture related) received during calendar year 2023 (January 1, 2023 – December 31, 2023).

The state submitted one SOP document, entitled “SOP complaint and Follow-up Inspections (a)”. This document outlines what DAB staff inspectors should do when a complaint is received.

DAB also submitted a complaint log for calendar year 2023. It contained 50 rows of complaints. From the list of complaints, the EPA randomized and selected 20 complaints and requested these 20 complaint files from DAB. From the 20 files received, the EPA randomly selected 10 complaints for review and retained the option to review the other 10 files as backups in case a complaint file was determined to not meet the criteria for inclusion in the audit. Table 2 lists the 20 complaint files requested from DAB, county of occurrence, source, and the complaint's review status by the EPA.

Table 2. Complaint files selected and their review status.

County of Occurrence	Complaint ID	Source of Complaint	Review Status
O'ahu	OA-23-25	Private citizen	Reviewed
Kaua'i	KA-23-02	Private citizen	Reviewed
O'ahu	OA-23-16	Private citizen	Reviewed
O'ahu	OA-23-21	Private citizen	Reviewed
O'ahu	OA-23-42	Private citizen	Reviewed
O'ahu	OA-23-29	Private citizen	Reviewed
Hawai'i	HA-23-09	Private citizen	Reviewed
O'ahu	OA-23-05	Anonymous	Reviewed
O'ahu	OA-23-27	Anonymous entity by way of EPA	Reviewed
Maui	MA-23-05	Private citizen	Reviewed
Hawai'i	HA-23-06	Veterinarian business	Not reviewed, retained as a backup
Kaua'i	KA-23-01	Private citizen	Not reviewed, retained as a backup
O'ahu	OA-23-01	Private citizen	Not reviewed, retained as a backup
O'ahu	OA-23-34	Private citizen	Not reviewed, retained as a backup
O'ahu	OA-23-02	Private citizen	Not reviewed, retained as a backup
Hawai'i	HA-23-07	Business	Not reviewed, retained as a backup
O'ahu	OA-23-28	Private citizen	Not reviewed, retained as a backup
Hawai'i	HA-23-04	Private citizen	Not reviewed, retained as a backup
O'ahu	OA-23-32	DAB employee	Not reviewed, retained as a backup
Maui	MA-23-01	Private citizen	Not reviewed, retained as a backup

IV.a. Complaint File Review Process

EPA staff conducted a thorough review of all provided documents for each complaint. Reviewers answered the following questions for each complaint:

- When was the complaint received?
- How was the complaint received (e.g. phone call, email, tip website)?
- Who was the source of the complaint (e.g. citizen, private company, government agency, non-profit, healthcare provider)?
- Was any language interpretation needed to receive the complaint? If so, what language(s)?
- What was alleged in the complaint (summarize)?
- When did the investigation begin? If not investigated, why not?
- How long did it take to initiate the investigation after becoming aware of the complaint?
- When did the investigation end?
- How long did it take to complete the investigation after initiation?
- How did the State follow-up?
- Was sampling conducted if warranted? If so, what kind of sampling?
- Were interviews conducted with the relevant parties (e.g. complainants, applicators, workers, property owners, employers, residents, etc.)?
- Was any language interpretation needed to conduct the interview? If so, what language(s)?
- Were relevant photos taken?
- Were relevant records collected?
- Did the investigation follow the State's procedures (SOP) for following up on complaints?
- What was the outcome of the investigation?
- What was the enforcement response if violations were identified?

- Did the incident meet the State’s current criteria as a “high level episode”? If so, was the incident reported to the EPA Region 9?
- Does the EPA reviewer have any concerns with the investigation?

IV.b. Audit Participants

EPA Region 9

- Brandon Boatman, Inspector, Toxics Section
- Matt Salazar, Manager, Toxics Section

DAB

- Esther Riechert, Manager, Pesticides Branch
- Scott Nishimoto, Environmental Health Specialist VI, Pesticides Branch
- Greg Takeshima, Manager, Vector Control Branch
- Michelle Xiao, Acting Environmental Health Specialist IV, Pesticides Branch
- Yeong Han Lau, Manager, Plant Pest Control Branch

IV.c. Key Dates and Milestones

Table 3 lists key dates and milestones in this audit.

Table 3. Key dates and milestones.

Date	Milestone
December 17, 2024	EPA sent a written request for the complaint response SOPs and list of complaints for calendar year 2023.
January 13, 2025	The EPA hosted a kickoff meeting with DAB.
January 17, 2025	EPA requested a written response to questions to help determine if the complaint tracking system is “adequate”.
January 22, 2025	DAB shared the complaint response SOP and list of complaints for calendar year 2023.
January 27, 2025	DAB submitted the written response to questions designed to determine if the complaint tracking system is “adequate”.
January 31, 2025	The EPA randomly selected 20 complaint files and requested the investigation and enforcement documents.
February 11, 2025	DAB shared the necessary complaint investigation and enforcement files with the EPA.
February 19, 2025	EPA follow-up up with DAB for clarification on DAB’s written response to questions regarding their complaint tracking system and initiated review of the complaint investigation case files and enforcement responses.
February 26, 2025	DAB responded to EPA’s follow-up questions regarding DAB’s complaint tracking system.
March 3, 2025	The EPA finished the review of complaint investigation case files and enforcement responses.
February 3, 2026	The EPA produced a draft report detailing its findings and recommendations. This initiated a 30-day review and comment period by DAB.
March 5, 2026	DAB submitted comments on the draft report.
March 30, 2026	EPA incorporated feedback and produced the final report.

V. Evaluation

A. Determining if the state's complaint tracking system is adequate

The DAB provided the following responses to the EPA's questions, which were designed to determine if the state's complaint tracking system is adequate as required under the Final Interpretive Rule (48 Fed. Reg. 409). DAB responses are listed verbatim. The EPA's evaluation immediately follows each DAB response for questions 1 through 5. An evaluation is not provided for question 6 because, unlike the first five questions, it was not asked in a way that addresses a specific component of what an adequate referral system should contain under the Final Interpretive Rule (48 Fed. Reg. 409). The EPA's overall evaluation of the adequacy of the state's complaint tracking system can be found below in section "VIII. Findings and Recommendations".

1. What is the system/process used to funnel complaints for further review? Who initially receives complaints for further review? Is there a specific organizational unit?

Response from DAB

Each inspector submits an inspection report jacket, including complaint cases, to the Case Development Section for further review. The Case Developer will then review each jacket in an unbiased manner. If the inspector indicated alleged violation(s) in the report, the Case Developer will determine if enough evidence was gathered to substantiate each alleged violation, and then issue the appropriate enforcement action. If the Case Developer determines that the inspector did not gather enough evidence to substantiate the alleged violation(s), the Case Developer may ask the inspector to follow up further in order to obtain the pertinent evidence. If the inspector does not indicate any alleged violation(s) in the report, and the Case Developer concurs with the inspector's determination, the Case Developer will close out the case.

EPA Follow-up Questions

1a. How do the complaints get funnelled to the inspectors? Does anyone log the complaint before it goes to the inspectors so that someone can track the inspector's timeliness? Is there a tip line or general inbox? If so, who manages the tip line/inbox?

Response from DAB

Complaints may be received by the Program Manager, Program Compliance Officer, or Branch Secretary. Once the appropriate county is determined for the origin of the complaint, the information will be forwarded to the inspector(s) in the appropriate county. The complaints are not logged by anyone before going to the inspectors. Complaints may be received from a variety of sources, including the main HDOA email (hdoa.info@hawaii.gov managed by HDOA's Public Information Officer), via phone (Branch secretary, Program

Manager, Program Compliance Officer, individual inspectors), or by referral from EPA Region 9.

EPA Evaluation

This satisfies the criteria for having “*a method for funneling complaints to a central organizational unit for review*” (48 Fed. Reg. 409). The Pesticide Branch Inspectors serve as the central organizational unit for processing and investigating complaints, and the Case Development Section serves as the central organizational unit for reviewing the information gathered by inspectors and determining if there is a need for enforcement or education.

2. What is the system/process used to log complaints and to track the stages of the investigation?

Response from DAB

Each county (Oahu, Kauai, Maui, Hawaii Island) has an Excel complaint log to keep track of all complaints received and to determine complaint number assignment. Each inspector has his/her own Excel inspection log to keep track of all inspections conducted, including complaint investigations. Each inspection log contains the following information: Date of the inspection; month of the inspection; year of the inspection; business name; location address; mailing address; phone number; inspection type; who was interviewed; last name of pesticide applicator; first name of pesticide applicator; applicator’s certification number; inspector’s name; complaint number; complainant information; total number of samples collected; sample numbers; name(s) of pesticide(s), if applicable; alleged violations; memo; and date submitted to Case Development Section. The Case Developer consolidates each inspection log into the statewide Excel Master Log, which contains all of the information fields as the inspection log, but it also includes the following information: Type of enforcement action; date of enforcement action; and date concluded.

EPA Follow-up Questions

2a. Who manages each county’s complaint log (excel spreadsheet)? If for example, [a Maui County inspector] manages the Maui County complaint log, who oversees [the Maui County inspector] to make sure the response is timely and complete? Are the inspection log and the complaint log the same or are there two different logs? In your response I don’t see the date the complaint was received as a tracked data point. Is that date tracked?

Response from DAB

The county inspectors manage each county’s complaint log. The Program Manager is the inspectors’ immediate supervisor and would oversee their actions. With the recent passage of Act 231, an Environmental Health Specialist VI position (Enforcement Section Supervisor) position was created. This new position would provide oversight to all of the inspectors

statewide. The inspection log and complaint log are two separate logs. Each inspector will enter information into their own inspection log for inspections conducted in which they were the lead inspector. Complaint logs are accessible by all inspectors in order to keep track of complaint numbers assigned to each case. The date on the Complaint/Episode Reporting Form is for “Date of Report” and this date may not always be the same as the complaint received date. One scenario will be that the complaint comes in during the weekend and the form is filled out on Monday. We are not actively tracking the time taken to follow up and complete a complaint inspection but the inspector’s narrative and the jacket will provide the information.

EPA Evaluation

This satisfies the criteria for having “a logging system to record the receipt of the complaint and to track the stages of the follow-up investigation” (48 Fed. Reg. 409). The internal complaint log maintained by the inspector assigned, serves as the logging system to record the receipt of complaints and track the stages of the follow-up investigation conducted by the Pesticide Branch.

3. What is the system/process used to refer complaints for further investigation?

Response from DAB

The inspector may refer the case to the appropriate agency (ex. Hawaii Department of Health, EPA), and then document the referral in the inspection report narrative. If the case is not referred to another agency before the inspection report jacket is submitted to the Case Development Section, the Case Developer may also refer the case to the appropriate agency, and then insert a memo into the inspection report jacket to document the referral.

EPA Follow-up Questions

3a. The inspector refers the case to the appropriate agency. Not the case development section or management? Aside from your response and my follow-up questions I think the intent of the question about system/process is to find out how the complaints get referred within HDOA, i.e., which complaints warrant further investigation and which ones don’t (some complaints may focus on issues not regulated under FIFRA or state pesticide law).

Response from DAB

During the information gathering phase, the inspector may determine that the complaint does not fall under the purview of the Pesticides Branch/FIFRA. In this case, the jacket may be completed by the inspector and submitted to the Case Developer for further review. There may also be times when no jacket is submitted to Case Development. For complaints that have been investigated by Pesticides Branch inspectors and a determination was made to refer the case to another agency, the inspector may refer the case and

document the referral in the jacket narrative. In addition, the Case Developer and Program Manager may also refer the case to another agency if it was not already done so by the inspector.

EPA Evaluation

This satisfies the criteria for having “*a mechanism for referring the complaint to the appropriate investigative personnel*” (48 Fed. Reg. 409).

4. *What is the system/process used to determine the progress of the investigation or case? How long does it typically take to make this determination when asked for a status update?*

Response from DAB

When the inspection report jacket is submitted to the Case Development Section, the inspector will send a letter to the complainant, notifying him/her that the information gathering portion of the investigation has been completed and that the report was submitted to the Case Development for further review. Upon closure of the case, which occurs after any enforcement action has been resolved, the Case Developer will send a letter to the complainant, notifying him/her that the case has been closed and that the information may be released to the public. The complainant may contact the inspector or the Case Developer at any point during the course of the investigation. However, any determination is considered to be pre-decisional until after the case is resolved.

4a. *How long does it typically take to make this determination when asked for a status update?*

Response from DAB

The determination is immediate whenever the complainant requests for a status update. If the case is still pre-decisional, the inspector or the Case Developer will inform the complainant that no information may be released at that time.

EPA Evaluation

This satisfies the criteria for having “*a system for allowing a rapid determination of the status of the case*” (48 Fed. Reg. 409). DAB can look for the current status of an investigation or case by contacting the inspector investigating the complaint.

5. *What is the system/process for notifying the complaint submitter of the end result to their complaint?*

Upon submittal of the inspection jacket to the Case Developer, the inspector sends a letter to the complainant stating that the information gathering portion of the investigation has been completed. Upon closure of the case, the Case Developer sends a letter to the

complainant, notifying the complainant that the case has been closed, and the information is available for release.

EPA Evaluation

This satisfies the criteria for having “*a procedure for notifying citizens of the ultimate disposition of their complaints*” (48 Fed. Reg. 409). DAB processes inform complainants about the result of the investigation and how to receive the final investigation report via a public records request (i.e. Uniform Information Practices Act form).

6. Please provide a generalized example describing the complaint follow-up process from cradle to grave (i.e. initial receipt to investigation to case close out).

Response from DAB

If an inspector directly receives a complaint, he/she would log the complaint into his/her inspection log and the county complaint log to determine the complaint number. If the Program Manager receives a complaint, the Program Manager would assign the complaint to an inspector. Upon assignment of a complaint, the inspector will conduct an investigation as soon as possible. This includes meeting with both the complainant and the suspected applicator and collecting environmental samples as necessary. The inspector will drop off the environmental samples at the Chemical Analysis Laboratory for analysis. The inspector will compile an inspector report jacket, which includes a narrative with investigative findings, inspection photos, and sample results (if applicable). The inspector will send a letter to the complainant explaining that the evidence gathering portion of the investigation was completed. The inspector will submit all inspection report jackets to the Case Development Section for further review. If no suspected violations were determined by the inspector throughout the course of the investigation, and the Case Developer concurs with the investigation findings, the Case Developer will close out the case and send a letter to the complainant, explaining that the case has been closed and the information may be released to the public. If suspected violations were indicated by the inspector, and the Case Developer does not believe that enough evidence was obtained by the inspector to substantiate the alleged violation, the Case Developer may ask the inspector to follow up and obtain additional evidence that the Case Developer determined was lacking. If suspected violations were indicated by the inspector, and the Case Developer concurs with the inspector's findings, the Case Developer will issue appropriate enforcement actions (Warning Notices [which do not include any civil penalties], Notices of Finding of Violation and Order [NOVs, which do include civil penalties], Final Orders, Demand Letters). Warning Notices do not require a response from the violator. If a violator receives an NOV and submits the civil penalty payment to the Pesticides Branch, the Case Developer will issue a Final Order to the violator and close out the case. Upon receipt of any NOV, the violator is given the opportunity to participate in an informal settlement meeting with the Pesticides Program Manager and the Case Developer. If a reduction in civil penalty amount is reached

between all parties, the Case Developer will then issue a Consent Agreement to the violator. If the violator submits the reduced civil penalty payment to the Pesticides Branch, the Case Developer will close out the case. If a violator receives an NOV and does not request for an informal settlement meeting and does not submit the civil penalty payment to the Pesticides Branch within the timeframe specified in the NOV, the Case Developer will issue a Final Order to the violator. If the violator submits the civil penalty payment to the Pesticides Branch after receiving the Final Order, the Case Developer will close out the case. If the violator does not respond to the Final Order within the timeframe specified in the Final Order, the Case Developer will issue a Demand Letter to the violator, explaining that the violator did not meet the terms and conditions specified in the Final Order. If the violator does not respond to the Demand Letter within the timeframe specified in the Demand Letter, the Case Developer may refer the case to the Department of the Attorney General for follow up. At this point, the Case Developer would close out the case. Once all enforcement actions are resolved, the Case Developer will close out the case and send a letter to the complainant, explaining that the case has been closed and the information may be released to the public. The complainant has the option to submit a Request to Access a Government Record to the Pesticides Branch to obtain a copy of the inspection report.

VI. Assessment

B. Assessing how complaints are being processed and whether it's being done timely and efficiently

This section summarizes the EPA's assessment of the state's response to complaints. EPA reviewers used a set of questions to guide them as they reviewed each complaint response and recorded information relevant to adequacy and timeliness of the response. The questions that guided the review process are listed first, followed in some cases by a summarized evaluation and in other cases, a reference to Appendix 1, where information was compiled by the EPA reviewers into a spreadsheet. The EPA's overall evaluation of the adequacy and timeliness of the investigations can be found below in section "VIII. Findings and Recommendations".

When was the complaint received? When did the investigation begin? How long did it take to initiate the investigation after becoming aware of the complaint? When did the investigation end? How long did it take to complete the investigation after initiation?

Refer to Appendix 1, columns E through I, for information recorded by the EPA reviewers.

The EPA used the date when an investigation report was prepared or submitted as the investigation completion date.

The average duration between when a complaint was received and when the investigation began was 4 days. Four of the investigations started the first business day the complaint was received. The Maui investigation took the longest to begin the investigation at 9 days. The

average length of an investigation from start to finish was 54 days with a median duration of 53 days. All investigations were completed within 96 days.

Who was the source of the complaint (e.g. citizen, private company, government agency, non-profit, healthcare provider)? How was the complaint received (e.g. phone call, email, tip website)?

Refer to Appendix 1, columns D and J, for information recorded by the EPA reviewers.

Most of the complaints (six) were first received via phone call, two via EPA complaint referrals, one via email from HDOH's HEER office, and one via text message to a DAB inspector.

Was any language interpretation needed to receive the complaint? If so, what language(s)?

Language interpretation was not needed to receive any of the reviewed complaints.

What was alleged in the complaint (summarize)?

Refer to Appendix 1, column K, for information recorded by the EPA reviewers.

How did the state follow-up? Was sampling conducted if warranted? If so, what kind of sampling?

Refer to Appendix 1, column L, for information recorded by the EPA reviewers.

Sampling was conducted in conjunction with two complaint follow-ups.

Were interviews conducted with the relevant parties (e.g. complainants, applicators, workers, property owners, employers, residents, etc.)?

Interviews were conducted with relevant parties whenever the complaint was formal and the complainant, or person involved in the alleged pesticide exposure incident, could be reached.

Was any language interpretation needed to conduct the interview? If so, what language(s)?

Language interpretation was not necessary for any of the reviewed complaints.

Were relevant photos taken?

Yes.

Were relevant records collected?

Refer to Appendix 1, column M, for information recorded by the EPA reviewers.

Relevant records appeared to have been collected for all reviewed complaints.

Did the investigation follow the State's procedures (SOP) for following-up on complaints?

It appears that the state's Standard Operating Procedures was not completely followed for five of the reviewed complaints.

1. Complaint ID OA-23-25: The COMPLAINT/EPISODE REPORTING FORM did not contain a complainant name, address, telephone no., or type of complaint (section 5.3.2), because the complaint was characterized as informal per an agreement with two complainants. The inspector did not meet with the complainants due to the nature of the complaint (informal), nor issue a Notice of Use/Misuse Inspection to the complainants to gain consent to gather information. Because the inspector did not meet with the complainants or issue a Notice of Use/Misuse Inspection form no Attestation Form was issued to, or filled out by, the complainants (section 5.4). Additionally, the complaint jacket does not contain a notice to the complainants from the Inspector or from the Case Developer about the opportunity to obtain a copy of the inspection report (section 5.7) because the complaint was characterized as informal. The SOP does not address this scenario.
2. Complaint ID OA-23-16: The COMPLAINT/EPISODE REPORTING FORM did not contain an Attestation Form (section 5.4).
3. Complaint ID OA-23-27: The COMPLAINT/EPISODE REPORTING FORM did not contain a complainant name, address, telephone no., or type of complaint due to the complainant's anonymity (section 5.3.2). Additionally, the complaint jacket does not contain the notice to complaine (applicator), from an Inspector or from a Case Developer about the opportunity to obtain a copy of the inspection report (section 5.7). A notice to the complainant could not have been sent since complainant was anonymous. The SOP doesn't address anonymous complaints.

4. Complaint ID MA-23-05: The complaint jacket did not contain the notice to complainee from the Inspector or from the Case Developer about the opportunity to obtain a copy of the inspection report (section 5.7).

What was the outcome of the investigation? Was there enforcement?

Refer to Appendix 1, column N, for information recorded by the EPA reviewers.

Did the incident meet the State’s current criteria as a “high level episode”? If so, was the incident reported to the EPA Region 9?

None of the reviewed complaints appeared to meet the state’s criteria as a high level episode based on the information in the investigation reports.

Does the EPA reviewer have any concerns with the investigation?

The EPA reviewer only had concerns with one of the investigation files reviewed. It appears that DAB may not have expended all options when trying to respond to one specific complaint, when that investigation was dropped. DAB was notified of this.

VII. Follow-Up Questions

See section V., questions 1a. – 4a.

VIII. Findings and Recommendations

This section details the EPA Region 9’s overall findings and recommendations for the two main steps:

- A. Determining if the state’s complaint tracking system is adequate; and
- B. Evaluating how complaints are being processed and whether it’s being done timely and efficiently.

Findings for steps A and B could be categorized into two performance levels:

Meets or Exceeds Expectations: No concerns were identified. Performance met or exceeded expectations.

Area for Improvement: Concerns were identified. A recommendation follows whenever an Area of Improvement is identified.

A. Determining if the state’s complaint tracking system is adequate

Finding – Area for Improvement

The state’s complaint tracking system is working and meets most of the five criteria specified in the Final Interpretive Rule (48 Fed. Reg. 409) for an adequate referral system

(The five criteria can be viewed above in Table 1.), however the logging system doesn't appear to have oversight since it is operated solely by individual members of the *central organization unit*, in this case the inspector cadre, which makes for potential slowdowns to criteria "d." – "A system for allowing a rapid determination of the status of the case." Additionally, a breakdown in the procedure listed in criteria "e." – "A procedure for notifying citizens of the ultimate disposition of their complaints.", appears to be occurring since a complaint jacket was missing a notice to the complainant about the opportunity to obtain a copy of the inspection report. Additionally, DAB's SOP states that this process of notification is also carried out for applicators (complainees), however, this does not appear to be occurring.

EPA Recommendation

EPA recommends that DAB management have more control of complaint intake and tracking in addition to more oversight of final product (complaint jacket), ensuring that each jacket contains all the SOP required documents and data points.

B. Evaluating how complaints are being processed and whether it's being done timely and efficiently

Finding – Meets or Exceeds Expectations

Overall, the investigations were conducted in a timely and efficient manner. Most investigations were started within a few days after receipt. The Maui complaint investigation took the longest to initiate at 9 days, due to the complainant's schedule, not an inspector's delay. Of important note, none of the complaints met the criteria of a "high level episode". A high-level episode would have required immediate follow-up, but this is not the case with the complaints reviewed.

All reviewed investigations were completed within 96 days, with the average investigation taking 54 days to complete. This is both timely and efficient considering the amount of time it often takes to conduct a thorough investigation and to write the investigation report.

When complainants or the people involved in the pesticide exposure incidents were able to be reached, inspectors interviewed relevant parties and collected or reviewed relevant records.

For the complaints where nobody could be reached, inspectors made attempts to contact the persons involved in the incidents before closing the investigation. There is little that can be done if someone chooses not to respond, does not cooperate with an investigation, or if there is missing or inaccurate information.

Violations and enforcement responses were clearly identified for the complaints where violations were identified.

EPA Recommendation

As stated above, management control and oversight of complaint investigation process may help in processing the final product, i.e. the inspection jacket, external communication, and possible enforcement. This may also help, as explained above, with satisfying criteria “d.” and “e.” of the Final Interpretive Rule.

A	B	C	D	E	F	G	H	I	J	K	L	M	N
#	County of Occurrence	Complaint ID	Source of Complaint	Date Received	Date Investigation Started	Days to Start Investigation After Received	Date Investigation Completed	Days to Complete Investigation After Starting	Method of Receipt	Brief Description of Complaint	Description of Complaint Follow-Up	Records Collected	Outcome of Investigation
1	O'ahu	OA-23-25	Private citizen, by way of EPA	7/18/2023	7/19/2023	1	10/23/2023	96	Email	Overuse of product, pollution of stream, & AEZ was ignored	Company was inspected and issued an Advisory Notice.	Photographs, statement from complaine (attestation), Application record, WPS training and respirator clearance record, and email correspondence.	Informal enforcement
2	Kaua'i	KA-23-02	Private citizen	11/13/2023	11/20/2023	7	1/12/2024	52	Phone call	Unauthorized use of pesticide on private property	Company was inspected and issued an Advisory Notice.	Photographs, statement from complainant (attestation), land lease, text message communication between complainant and complaine	Informal enforcement
3	O'ahu	OA-23-16	Private citizen	5/9/2023	5/15/2023	6	5/24/2023	9	Phone call	HDOT allegedly applied a Herbicide on an empty parcel of land owned by the state	Inspector communicated by email with HDOT Supervisor and was told HDOT did not apply a herbicide to parcel in question since January 2023, pre-dating the complaint by approximately 4 months. Investigation was therefore dropped.	Photographs	Closed without action - According to HDOT no applications occurred with timeline consistent with complaint
4	O'ahu	OA-23-21	Private citizen	6/12/2023	6/13/2023	1	8/10/2023	58	Email	Perceived pesticide odor	Company was inspected and issued an Advisory Notice.	Photographs, statement from complainant (attestation), text message communication between complainant and complaine	Informal enforcement
5	O'ahu	OA-23-42	Private citizen	12/8/2023	12/13/2023	5	2/27/2024	76	Phone call	Complainant alleged illegal spraying or dumping of pesticides	According to the inspection report the DAB inspector was not able to get in touch with the complainant so the investigation was dropped with no additional follow-up	Photographs	Closed without action - DAB inspector could not get complainant to respond and didn't follow-up with adjacent property owner
6	O'ahu	OA-23-29	Private citizen	9/5/2023	9/6/2023	1	11/22/2023	78	Phone call	Suspected tree poisoning	DAB took environmental (swabs) samples.	Photographs, environmental (swabs) samples, statement from complainant (attestation)	Closed without action - Applicator unknown
7	Hawai'i	HA-23-09	Private citizen	10/20/2023	10/23/2023	3	12/15/2023	53	Phone call	Complainant suspected mango tree poisoning	Inspection with complainant with vegetation samples taken	Photographs, vegetation samples, statement from complainant (attestation)	Closed without action - no pesticides detected in samples. It appears tree was diseased
8	O'ahu	OA-23-05	Anonymous	2/17/2023	2/17/2023	0	2/24/2023	0	Phone call	Complainant was concerned about future pesticide use at a site.	Site was referred to education section of DAB for follow-up.	Not applicable	No violations were identified.
9	O'ahu	OA-23-27	Anonymous entity by way of EPA	12/4/2023	12/6/2023	2	1/9/2024	34	Email	Misuse of mothballs in a residential yard	Entity was inspected and issued an Advisory Notice.	Photographs	Informal enforcement
10	Maui	MA-23-05	Private citizen	8/25/2023 & 8/30/2023	9/8/2023	9	9/25/2023	31	Text message	Use of pesticide in occupied area was making the complainant sick.	Company was inspected and issued an Advisory Notice.	Photographs, 3 attestations (1 from complainant, 1 from complainant's employer, and 1 from complaine), applicator's inventory list, SDS for Bifen I/T EPA Reg. No. 53883-118), and email correspondences with complainant	Informal enforcement