Monterey County Pesticide Enforcement Work Plan
2006/2007

Our Mission:

Promote and protect agriculture, the environment, and public welfare, and to assure consumer and business confidence in the marketplace.

Pesticide Use Enforcement Personnel Resources

The pesticide use enforcement (PUE) program in Monterey County is currently supervised under one Agricultural Program Manager and three Deputy Agricultural Commissioners. The main office of the Agricultural Commissioner is in Salinas, and there are three Branch offices, one in King City (South County), one in Pajaro (North County) and one in Monterey (Coast). Some of the staff in the main Salinas office are dedicated to working in pesticide enforcement, and some also work in the organic program. Staff in the branch offices work in phytosanitary export certification, pesticide use enforcement, nursery and seed inspection, pest exclusion and other departmental programs outside the pesticide arena.

Full Pesticide Use Enforcement Staffing Levels

15 –Agricultural Inspector/Biologists licensed by the Department of Food and Agriculture in Pesticide Use Regulation and Investigation and Environmental Monitoring. On average these Biologists spend 67% of their time (18,900 hours) in pesticide use enforcement.

1 – Deputy Agricultural Commissioner licensed by the Department of Food and Agriculture in Pesticide Use Regulation and Investigation and Environmental Monitoring. Responsible for supervising 8 Biologists and the daily activities of the department's pesticide use enforcement program. Deputy spends 75% of time (1,500 hours) in pesticide use enforcement.

1 – Deputy Agricultural Commissioner licensed by the Department of Food and Agriculture in Pesticide Use Regulation and Investigation and Environmental Monitoring. Responsible for the department's organic certification program and training and supervising new employees in pesticide use enforcement and other departmental programs. Deputy spends 50% of time (1,000 hours) in pesticide use enforcement.

2 – Deputy Agricultural Commissioners licensed by the Department of Food and Agriculture in Pesticide Use Regulation and Investigation and Environmental Monitoring. Responsible for supervising the remaining 6 Biologists and assigned as lead over all activities in one of the Branch offices. On average these Deputies spend 60 to 70% (2400 -2800 hours) of their time in pesticide use enforcement.

1 – Chief Deputy Agricultural Commissioner, licensed by the Department of Food and Agriculture in Pesticide Use Regulation and Investigation and Environmental Monitoring. Responsible for supervising 2 Deputy Agricultural Commissioners and management of the

Pesticide Use Enforcement Program and the Fruit and Vegetable Standardization Division. Chief spends 25% of time (500 hours) in pesticide use enforcement.

Support for the above licensed pesticide activities is provided by: 1 – Information System Coordinator providing computer support, 1 – Geographic Information System (GIS) Analyst providing GIS data and map production support to PUE staff dealing with ranch maps, investigations, sensitive sites and endangered species areas, and 4 – Office Assistants providing additional part-time clerical pesticide program support in the Salinas office.

FY 05/06 & 06/07 Staffing Levels

Management

In August 2005, a Chief Deputy Commissioner who had nine years experience in program management unexpectedly retired and in March 2006 a Chief Deputy Commissioner who had six years experience left to work in another county. At the end of March 2006, the Commissioner hired an Agricultural Program Manager with over twenty-five years experience in PUE. She is licensed by the Department of Food and Agriculture in Pesticide Use Regulation and Investigation and Environmental Monitoring. Responsible for supervising 1 Deputy Agricultural Commissioner and overall management of the pesticide use enforcement program. Manager spends 95% of time (1,900 hours) in pesticide use enforcement.

Pajaro

At the end of September 2006, the Pajaro office deputy who had six years of experience working in PUE and two years working as the deputy in that office, was transferred to Salinas to supervise the phytosanitary export certification, pest exclusion, and nursery and seed inspection programs. He was replaced by a deputy who has seventeen years of experience working for the department, five of which were spent working in the PUE program. The new Pajaro deputy has not worked in PUE for the past six years. Also working out of the Pajaro office are an Agricultural Inspector/Biologist III, who has three years of experience working in PUE and fourteen years working in plant quarantine; an Agricultural Inspector/Biologist II, who has one year experience working in PUE; and an Agricultural Inspector/Biologist I, who has two years working in PUE.

King City

The deputy over the King City office has three years of experience working in PUE, one year working as the deputy of the King City office, two years working as the PUE deputy in Salinas, and twelve years working in plant quarantine. Last fiscal year she was off on extended medical leave for four months and worked part time from May 2006 through July 2006. Also working out of that office is an Agricultural Inspector/Biologist III, who has six years of experience working in PUE. At the end of July 2006, the office lost their Agricultural Inspector/Biologist I, who had just completed about one year experience working in PUE. That position has not been filled. At the end of August

2006 the King City Agricultural Inspector/Biologist II, who has two years experience working in PUE, went on extended leave and is not expected to return to duty until September 2007.

Salinas

At the end of September 2006, the deputy over PUE retired. He had eighteen years experience in PUE. The deputy responsible for the department's organic certification program and training of new employees was re-assigned as the PUE deputy. He has six years of experience working in PUE. Also working out of that office is an Agricultural Inspector/Biologist III, who has five years of experience working in PUE; two Agricultural Inspector/Biologist II's with two and three years PUE experience; and an Agricultural Inspector/Biologist I who was just hired in August 2006. In March of 2006, an Agricultural Inspector/Biologist I who had just completed five months training in PUE transferred to another county. In May an Agricultural Inspector/Biologist II who had two years PUE experience took a job in private industry. In July an Agricultural Inspector/Biologist I with four years PUE experience left the county.

Monterey

The Monterey Branch office has not been staffed since 2003. Biologists from the Salinas office cover pesticide use enforcement activities on the Monterey Peninsula out of the Salinas office.

Support Staff

In 2006 one of the Office Assistants providing additional part-time clerical pesticide program support retired, one moved into the accounting department, and one transferred to the Sheriff's department. All three positions were re-filled in August.

Program Impacts

Over the past two years, several clerical support positions were lost due to budget cuts. Consequently, the branch offices are without any clerical support. Meanwhile, the job functions of clerical support staff have evolved into less traditional clerical duties with a significant increase of time spent in data entry. As a result, licensed PUE inspector biologists spend at least one day a week on office duty assisting customers, scheduling appointments, answering phones, maintaining files, and preparing and sending letters and correspondence, (≈ 4,000 hours).

This fiscal year (06/07) there are a total of eight vacant positions (one clerical; four inspector biologists; one deputy and two chief deputies) and one position held by a person on extended medical leave.

Of the four deputies working in PUE, none have more than six years experience working in the program. Of the ten licensed PUE inspector biologists only two have more than four years experience in PUE. We are hoping to fill the four vacant inspector biologist positions, but have had difficulty due to the high cost of living in this area of the state, and the comparably low

wages. We are in the middle of upgrading the specifications for our Inspector/Biologist and Deputy classes and doing job comparison studies which will be used to propose salary increases to enhance our competitiveness in employee recruitment and retention. Even if candidates are found and positions are filled, it will take at least two years to become fully proficient in pesticide activities. A large part of this time is used to gain an intimate knowledge of cropping patterns, pest management, sensitive environmental conditions, permittees, etc… throughout the county.

As a result it is expected that the number of field inspections may be lower than what would be accomplished at full staffing levels and with experienced staff.

A. Restricted Materials Permitting

Permit -Process Evaluation and Improvement Planning

Current Business Process
During fiscal year 2005/2006, we issued 677 restricted material permits and 89 operator identification numbers (OINs) in Monterey County. Fifty of the permits were issued for non-agricultural use, and thirty of those were issued to licensed pest control businesses and licensed landscape maintenance gardeners.

146 of the permits were multi-year permits. Most seasonal permits and OINs are issued for a period of one year, and expire on January 31. Multi-year permits and OINs are issued for some perennial agricultural plantings of wine grapes; non-production agricultural sites of parks and cemeteries; non-agricultural sites of hospitals, seed treatment facilities and commodity packing houses. We issue multi-year permits and OINs for up to three years, that also expire on January 31. Since February 2005, we have used DPR approved Restricted Materials Management System (RMMS) software to generate permits and OINs.

All restricted material permits and private applicator certifications are issued by staff that have been thoroughly trained and hold valid County Inspector Biologist licenses in Pesticide Regulation and Investigation and Environmental Monitoring. New staff members in training issue permits and certifications only under the direct supervision of a licensed biologist or deputy, whether or not they themselves are licensed.

Issuing biologists interview each permit applicant to verify that the individual is the operator of the property. We require persons acting as a representative for the operator of the property to submit a signed *Authorized Representative Form* with their permit application. We also require all permit applicants to be certified applicators. Certification numbers are recorded on the permit along with certification expiration dates.

Individuals wanting to be certified as private applicators meet with a licensed pesticide biologist. Walk-ins are accepted however an appointment is necessary during permit renewals in December and January. All applicants complete the DPR Private Applicator Certificate Application form

(PR ENF 045). Biologists review the application with the applicant, to determine if the individual is qualified to take the private applicator certification examination. If we determine that an applicant is a commercial applicator rather than a private applicator, we explain the DPR licensing program and provide copies of licensing applications. We administer the private applicator certification examination developed by DPR, according to their procedures. A copy of the application is filed with the restricted materials permit. For certification renewals, we attach applicant provided proof of continued education to the renewal application. If an individual fails the exam, we do not allow them to re-test for seven days.

During permit issuance, biologists use a check list we developed to ensure that all functional equivalency evaluation requirements of the California Environmental Quality Act *Environmental Impact Report* are addressed during the permit issuance process.
We require permit applicants to submit a map that identifies all adjacent and surrounding areas that could be adversely impacted by the use of the restricted material. Biologists use a *Check List for Ranch Maps* to assure applicant interviews are thorough, and site map reviews are comprehensive. Biologists use the checklist in conjunction with aerial photographs of all the ranches in the county, and their own field knowledge to evaluate each proposed application site before a permit is issued.

We identify hazards of unfamiliar restricted materials by reviewing the pesticide labels, and the *California Restricted Materials & Hazard Assessment* document our office developed in 2005. Based on the hazards of the materials and the location of sensitive areas around each application site we assess the likelihood of an adverse impact from the proposed application. When there is a sensitive area near the treatment site, we presume that an adverse environmental impact is likely. At that point, the issuing biologist determines whether or not the pesticide labeling or state regulations satisfactorily mitigate the identified hazards. If additional mitigation is warranted, the issuing biologist asks the permit applicant to identify mitigation measures that were considered with the applicant's pest control advisor prior to applying for the permit. If the permit applicant indicates that mitigation measures were not considered, he/she is asked to meet with his/her advisor to discuss possible mitigations prior to continuing the permit process. If mitigation measures were considered, the biologist documents the applicant's response and determines if there are any additional reasonable and effective measures that would further lessen the identified hazards. If feasible mitigation measures are identified they are included as permit conditions.

We have a list of commonly used conditions that may be applied as appropriate. These include neighbor notification requirements, application timing constraints, specific buffer zone requirements, aerial restrictions, supervision requirements, restrictions on the method of application and endangered species precautions. In addition, we use the DPR recommended pesticide specific permit conditions when appropriate, as well as historical information gathered from inspections and investigations. We have some general conditions that are applied to all permits as needed.

If no mitigation measures are feasible, and a significant environmental hazard still exists, the issuing biologist asks the permit applicant to identify alternatives to the use of the restricted material that were considered with the applicant's pest control advisor prior to applying for the permit. If the permit applicant indicates that alternatives were not considered, he/she is asked to meet with his/her advisor to discuss possible alternatives prior to continuing the permit process. If alternatives were considered, the biologist documents the applicant's response and determines if there are any other feasible alternatives. If a feasible alternative is identified, the permit is denied. Permit denials are recorded on a permit denial form suggested by DPR, and kept on file in the Salinas office for two years.

Staff frequently consults with the University of California Cooperative Extension and various commodity and industry organizations to augment their knowledge of local conditions and alternatives. The PUE deputies and program manager regularly attend the Coast Area Pesticide Enforcement Group meeting to share information and strategies on evaluating restricted material permits and developing reasonable and effective permit conditions.

The DPR permit supplement form is used to issue permit amendments. Permit amendments are issued at any of our three offices in person on a walk-in basis, by fax and by mail.

Biologists are responsible to check every permit they issue to ensure permits are correct and complete. As a back up, permits are randomly reviewed for correctness and completeness by other biologists and supervisors.

<u>2005/2006 Program Changes</u>
During Fiscal Year 2005/2006, we made several improvements in our restricted materials program. We added a "Notes" sheet to each permit file to facilitate documentation of contacts made with each permittee throughout the year. In the past we had no standardized way to capture information from permittee interactions and make it available to everyone in the office. The "Notes" sheet will remain in the permittee's folder and be brought forward with each permit renewal.

We expanded and clarified our general aerial application permit condition. The previous condition was confusing and needed to be better defined. Staff met with and received comments and suggestions from a small group of industry representatives including a grower, several licensed pest control businesses, several licensed pest control pilots and the county Agricultural Advisory Committee. Consequently the new condition is understandable, feasible and effective.

We revised our chemical specific 1,3-D permit fumigant conditions to make them more understandable and enforceable. We added more detail to the notification requirements, redefined the buffer zone requirements and developed a requisite vacating agreement.

We modified our Methyl Bromide field fumigation permit conditions and worksite plan to clarify and emphasize responsibilities of permittees, operators of adjacent properties, and pest control businesses, and to better explain notification requirements.

Planned Improvements

During the ongoing assessment of the restricted materials permitting element of our core program we identified several areas that we plan to improve during fiscal year 2006/2007. Since we have used the RMMS software for only two years we are still trying to clean up some of the residual information that carried over from the old permit program. We need to update site narratives on some of the permits for standardization and uniformity. We want to revise our Notice of Intent (NOI) policy to make it more understandable. Our Metam-Sodium drip and Aluminum Phosphide conditions need to be updated and improved. We want to consider development and adoption of general chloropicrin fumigations conditions. We need to convert pesticides currently listed on permits by trade name to common or chemical names. We want to streamline issuance of possession permits to pest control businesses. We want to revise our Methyl Bromide Notification form to require better identification of the treatment site.

Goals and Deliverables

- Prior to 2007 Permit Issuance:
    - Revise and clarify our NOI policy and NOI waiver instructions.
    - Ensure all PUE staff has a copy of and have attended a DPR training session on the newly developed *Restricted Materials and Permitting (Volume III) of the Pesticide Use Enforcement Program Standards Compendium* in November and December 2006.
    - Adopt DPR's example *Permit Refusal Based on Evaluation of the Application* from the *Restricted Materials and Permitting (Volume III) of the Pesticide Use Enforcement Program Standards Compendium*, to ensure applicants receive due process for permit refusals based on information submitted with a permit application.
- At Permit Issuance 2007:
    - Implement the use of the *Pest Control Business County Registration Form* to issue possession permits to pest control businesses that register to work in the county in 2007.
    - Remove pesticide trade names from all permits and change to chemical or common names,
    - Standardize the information in the first text box on page one of all permits so the information is specific to permit conditions and applicator certification.
    - Location/Site Narrative for each site on all permits will be updated to remove wording about conditions, as it is redundant and confusing with the RMMS program
    - No permit will be issued if the applicant provided map is below standard.
- By Spring 2007:
    - Update Methyl Bromide conditions to require a more complete narrative and/or map of proposed treatment area be included in the initial notification to residences, schools, hospitals etc…, within 300 feet from the perimeter of the outer buffer zone.

Measure of Success
During March and April 2007 we will conduct a random review of 5% of the permits that were issued to determine if the permits have been cleaned up and standardized according to our goals.

Site Evaluation-Process Evaluation and Improvement Planning

Current Business Process
We require NOIs for all restricted material applications, agricultural and non-agricultural, unless the permit is a job permit.

We receive NOIs by fax, mail or personal delivery. We do not accept NOIs by telephone. There is a drop box at each of the CAC offices. Biologists check the boxes and faxes Monday through Saturday. Biologists on weekend duty check NOIs for weekend applications. As NOIs are received they are reviewed by staff, sorted, counted and filed according to proposed application date.

Licensed staff reviews NOIs to determine if they are complete; consistent with the permit; any environmental conditions have changed since the permit was issued; and all buffer zone calculations are correct. They compare the NOI against the permit and worksite plans to ensure locations match and nothing has changed in surrounding sites. When simple or minor errors are found, we notify the operator of the property. If a complex or serious error is found, we deny the NOI, document it on the NOI, issue a permit denial and file a copy in the permit denial folder and a copy in the permittee's folder.

In determining which proposed applications require a pre-application site inspection we consider the location of the proposed application in relation to sensitive sites (e.g., residences, schools, hospitals, field crews, other crops, endangered species habitat, rivers, streams and domestic animals); the toxicity and other characteristics of the pesticide including odor and formulation; the proposed application method and equipment; the permittee's compliance record and meteorological conditions. We generally exceed our mandate to monitor 5% of all NOIs received. We strive to monitor 100% of NOIs received for fumigant applications of methyl bromide, 1,3-D, methyl isothiocyanate (MITC) generating fumigants, and chloropicrin.

In fiscal year 2005/2006, we received 21,252 NOIs, and evaluated 1,716 sites prior to the applications. This amounts to about 8% site preapplication site monitoring.

2005/2006 Program Changes
Last fiscal year no significant changes were made to our site evaluation process. We hired four new biologists who were subsequently assigned to work in PUE, and much of the program focus was on training and development of these individuals to provide them with the knowledge and skills necessary to continue an effective site monitoring plan. In November 2005, our DPR Enforcement Branch Liaison provided classroom training on the Pesticide Regulatory Program's Environmental Impact Report Functional Equivalency and the site evaluation process. The PUE and training deputies and senior staff members spent considerable time in the field with the

trainees, helping them to become familiar with our strategies for targeting and prioritizing specific restricted materials and sites for closer monitoring.

Planned Improvements

Overall we monitored approximately 8% of all NOIs received last fiscal year, however during the winter months staff focused heavily on permit issuance, and consequently the number of site evaluations dropped below 5% in January and March. This year we want maintain site evaluations at or above 5% during winter months. According to 3CCR section 6436, *Permit Monitoring*, "In the case on non-agricultural uses the pesticide use of each permit holder shall be inspected at lease once a year." Historically this has meant that every non-agricultural use permit holder must have a use (application and/or mix and load) inspection at least once a year. Some non-agricultural permittees only make one application during a year, which has made it very difficult for staff to conduct an inspection, depending on workload, timing of the application, and location of the site. According to DPR's newly developed *Restricted Materials and Permitting (Volume III) of the Pesticide Use Enforcement Program Standards Compendium*, "Every non-agricultural use permit holder must have either a site evaluation or a use inspection at least once per year." We need to implement a program to conduct site evaluations for non-agricultural permits that we have been unable to inspect in the past.

Goal and Deliverables

- Fall training for new and experienced staff on department identified "high" priority situations based on pesticide by crop, environmental conditions, and other criteria identified in the goal and objectives listed above. This includes the goals set for increased monitoring of specific pesticides.
- During December, January, February and March, weather permitting we will have at least one biologist assigned to work in the field every day.
- Every other week during December, January, February and March we will compare the number of NOIs received with the number of site evaluations completed, to ensure that we conduct site evaluations on at least 5% of the NOIs we receive.
- Develop a plan to ensure all non-agricultural restricted material permit holders have a use or site evaluation once a year, and implement the plan by March 2007.

Measure of Success

We will have and follow a written plan for evaluating non-agricultural restricted material use, and we will conduct site evaluations on at least 5% of the NOIs we receive by month.

B. Compliance Monitoring

Pesticide Use Monitoring and Record Inspections Evaluation and Improvement Planning

Comprehensive Inspection Plan

All staff except the newest hire has been trained in conducting pesticide use monitoring and record audit inspections. New staff is trained through mentoring/on-the-job-training where they are assigned to ride along with veteran biologists or their supervising deputy. In addition all staff

working in PUE receives formal classroom training provided by DPR and the program deputy. Staff also receives refreshers and updates through bi-monthly pesticide enforcement staff meetings. Unlicensed biologists work exclusively under the direct supervision of licensed biologists and either the pesticide program deputy or branch-supervising deputy.

All biologists have access to DPR's Enforcement Letters. When new letters are e-mailed to the commissioner, he forwards them to the program manager who forwards them to all deputies and staff who work in PUE. In addition, all biologists have Internet access and know where to find Enforcement Letters on DPR's web site. All biologists have a copy of the 2003 DPR *Inspection Procedures Manual*, and they carry it along with Volume II of the Pesticide Use Enforcement Program Standards Compendium and a supply of inspection forms when in the field on surveillance. Biologists are also equipped with cellular phones in case they need to check with the office during an inspection. The supervising and program deputies do a quality control review of all inspection paper work completed by staff, to verify that the appropriate inspection procedures are followed and to give feedback for training purposes. Although each biologist is responsible to track and conduct follow ups on their own inspections, the supervising deputy also keeps a log of inspections that require follow up, so they can monitor work load.

In developing inspection strategies we instruct biologists to focus on areas with the greatest need according to safety and risk to workers, the public and the environment. We review inspection histories to determine where biologists have found the most noncompliances, and provide that information for them to consider when determining who to inspect. We direct biologists to look for private applicators rather than pest control businesses, and to take alternate routes and drive on ranch roads during pesticide surveillance. From the goals in our workplan, the pesticide, supervising and chief deputies develop work goal numbers for the biologists. Throughout the year the deputies monitor inspection types and numbers, and makes adjustments to biologist's work goal numbers. In 2006 we began use of the Automated Inspection and Reporting System software and hardware from Statewidesoft. We also contracted with them for development of a County Agricultural Records & Tracking System on a single database to track time and reports in our various programs. In July 2006 staff in the Salinas office began tracking pesticide time using the newly developed soft ware. It has greatly facilitated supervisors' ability to monitor workplan accomplishments.

Biologists working in the branch offices are assigned to work pesticide surveillance on a daily rotational basis, covering the entire geographical area of the branch. The geographical area of the Salinas office is broken into districts, and each biologist working in Salinas PUE is assigned surveillance responsibility for his or her own district.

From April through October the Salinas office has staff assigned to start at dawn several days each week, as well as staff assigned to work surveillance on weekends. The Pajaro Branch office also has weekend duty during field fumigation season.

For routine inspections, noncompliances are documented by checking the criteria "No" box, and explaining the violation in the "Remarks" section. After the inspection biologists review the

noncompliances with the responsible person (owner or manager). If the responsible person is not on site during the inspection, the person being inspected signs the inspection form and receives a copy of the inspection. The biologists then contact the responsible party either in person or by phone. After explaining the non-compliance to the responsible person, biologists either mail or give them a copy of the inspection form. All warnings are documented. We generally do not issue a second compliance action (violation notice, warning letter or documented compliance interview) when non-compliances are found and documented on an inspection report.

2005/2006 Program:
Due to the staffing issues described under Personnel Resources above; staff time spent on three major investigations; and staff time spent on increased enforcement actions, we did not meet all of the inspection goals of our 2005/2006 work plan, as shown in the following table:

	Fumigations	Mix Load	Applications	Records	Structural	FWS	TOTAL
Total Goal	110	310	500	100	25	259	1304
Total Completed	98	175	415	134	35	158	1015
Percent of Goal	89% below	56% below	83% below	34% above	10% above	61% below	78% below

Unusual weather patterns in spring 2006 set agricultural planting and cultural practices back about one month, which may also have contributed to fewer inspections last fiscal year.

Planned Improvements:
In July 2006, due to reduction in licensed biologists, we eliminated biologist assigned districts in the Salinas office. Instead of assigning each biologist responsibility for a geographical district, they are now assigned to work pesticide surveillance on a daily rotational basis, similar to the method used by the branch offices. Since the Salinas office is responsible for a larger geographical area, we have split the area into three regions, and each day a biologist is assigned to do surveillance one of the three regions, to ensure that the entire geographical area of the office is covered. At the same time, with only one biologist available in the King City office, the geographical area previously covered by the Salinas office has extended fifty miles south to King City.

We know from pesticide use reporting data that about two-thirds of all pesticide applications in Monterey County are made by licensed pest control businesses. In past years this ratio has been reflected in our non-fumigation pesticide monitoring inspections (388 pest control business inspections: 202 property operator inspections). Our 2005/2006 data from non-fumigation pesticide use monitoring inspections of pest control businesses, shows that the proportion of noncompliances per inspection is very low (≈1 noncompliance out of every 11 inspections). Where 2005/2006 data from non-fumigations pesticide use monitoring inspections of property operators show that the proportion of noncompliances per inspection is very high (≈ 1 noncompliance out of every 2 inspections). In order to direct our resources to the areas of highest noncompliance, in 2006/2007, we plan to focus two-thirds of our non-fumigations

pesticide use monitoring inspections on property operators. We believe that this change in focus will lead to an increase in non-compliances, which will result in an increase in time spent on follow up inspections, compliance and enforcement actions. Also, most property operator pesticide uses are of non-restricted pesticides, and there are no requirements to notify the commissioner prior to the application. In addition, only one-third of pesticide applications in the county are conducted by property operators, so inspections will be more difficult, and more time will be spent in pre-inspection planning and surveillance. Due to these factors combined with staffing shortages, we are decreasing our inspection goals by 12%.

Last fiscal year we increased our structural inspection numbers slightly. In 2006/2007 we will continue to increase the numbers slightly. We plan to keep increasing our structural numbers over the next few years, until we have sufficient trained staff to dedicate to the structural program.

In the past, we have not done a good job of tracking follow up inspections. In 2006/2007, the pesticide, supervising and chief deputies will develop and implement a tracking system to assist biologists in completing follow up inspections.

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Goals & Deliverables

The following table shows our inspection goal numbers for 2006-2007 by inspection type:

	Fumigations	Mix Load	Applications	Records	Structural	Field Worker
Field	97					
Commodity	3					
Property Operator		60	240			
Pest Control Business		40	110			
Branch I					30	
Branch 2					15	
Branch 3					5	
Production Ag HQ EMP Safety				72		
Other HQ EMP Safety				6		
Dealer				2		
Adviser				4		
PCB Ag Records				4		
PCB Structural Records				4		
Ag PCB EMP HQ Safety				4		
SPCB EMP HQ Safety				4		
Farm Labor Contractor						100
Grower						75
Other						25
Total Goal	**100**	**100**	**350**	**100**	**50**	**200**

Measure of Success

Each quarter we will compare the number of inspections completed to our goals. We will strive to meet the inspection goals listed above; however, unforeseen pesticide enforcement related demands may influence our ability to meet our inspection goals. We will consult with our DPR Enforcement Branch Liaison through out the fiscal year and adjust inspection goal numbers as necessary.

Investigation Response and Reporting Evaluation and Improvement Planning

Current Business Process

All of the biologists working in PUE receive "in-house" training. They also attend DPR provided trainings when available. In January 2006, all biologists and deputies working in PUE attended training on the newly developed DPR *Investigation Procedures (Volume 5) of the Pesticide Use Enforcement Program Standards Compendium*, provided by DPR Worker Health and Safety and Enforcement Branches. In May 2006 all PUE biologists attended an Inspection Sampling training provided by our DPR EBL. Staff follows the investigation, sampling and report format identified in the compendium. When training needs are identified by the pesticide deputy, supervising deputy, or DPR, all parties consult to determine how to best meet the training needs.

For complaint investigations, the pesticide biologist on duty in the branch or main office normally takes the initial call. At that time they fill out a county complaint log. If the complaint can be resolved to the satisfaction of the complainant and the biologist in the course of the conversation or with just a few phone calls, the outcome is documented on the complaint log and no further action is taken. If the complaint involves a pesticide use or incident that is in progress at the time of the call the biologist will notify the program deputy who will dispatch another biologist to the site to begin the investigation immediately. If the complaint involves a pesticide use that occurred sometime in the past the biologist will notify the deputy and the deputy will assign the investigation to the next available biologist. Investigations are assigned on a rotational basis, and are tracked on a spreadsheet log. If there is any question as to whether or not an investigation is warranted, the pesticide deputy consults with DPR. When an investigation is conducted, an investigative report is completed. All pesticide investigations are documented on PR-ENF-127.

Upon completion investigative reports are reviewed by the supervising biologists and the program manager before sending them to DPR.

2005/2006 Investigations

During fiscal year 2005/2006, we completed thirty-one pesticide-related investigations. The investigations included complaints about odor, possible drift, property damage, methyl bromide field fumigation notification, pesticide spills, aerial applications, possible domestic animal and wild life effects and homeowner disputes. Twenty-two of the investigations were human effects pesticide illnesses, which were either anti-microbial or agricultural use related. Three of the investigations we completed were high profile multi-jurisdictional investigations.
The first was a concurrent investigation with the Department of Industrial Relations Division of Occupational Safety and Health (Cal OSHA) resulting from a complaint filed with the Superior Court by the California Rural Legal Assistance for two former employees of a company engaged in the business of removing tarps after methyl bromide field fumigations. The complaint alleged that the employer continuously violated various sections of the California Labor and California Food and Agricultural Codes while the complainants were employed from June 1992 through August 2003. Our office worked closely with an investigator and chief counsel from Cal OSHA

and our DPR EBL developing our investigative plan and conducting interviews. Although Cal OSHA failed to find sufficient evidence to substantiate any violations in their area of regulatory authority, our office was able to prove several violations which were later upheld in an agricultural civil penalty hearing.

The second investigation resulted from an illegal residue of lambda cyhalothrin detected on strawberries grown in Monterey County found by DPR during routine marketplace surveillance sampling in August 2005. In 2004, we conducted a similar investigation on an illegal residue of lambda cyhalothrin on strawberries, which proved to be the result of an illegal application of the pesticide Warrior. Consequently when we received notice of this residue late in 2005, we expanded our investigation, working closely with DPR, Santa Cruz County Agricultural Commissioner's office, and our District Attorney's office. We developed and carried out a comprehensive investigative plan. As a result we found seven growers with lambda cyhalothrin residues in their strawberry fields, and turned the investigation over to the District Attorney's office for prosecution.

The third investigation was initiated in early October 2005 after emergency responders were dispatched to a Salinas neighborhood following about 15 calls to 911 from residents complaining of eye irritation, shortness of breath and nausea. Earlier in the day a grower applied the fumigant chloropicrin through the drip system to tarped beds in a nearby field. We consulted with our DPR EBL and our County Environmental Health Department, and developed and executed an extensive investigative plan. Our biologists canvassed the neighborhood and conducted over 100 in-person and 40 telephone interviews. We also sent explanatory letters to 1,163 addresses in the area. We enlisted the assistance of an irrigation specialist with the University of California Cooperative Extension, to help analyze the grower's irrigation system. We obtained evidence to support several violations, and the case was turned over to the District Attorney's office for prosecution. This was the only investigation we had during the fiscal year that met the "Priority Investigation Effects Criteria" contained in the *"Cooperative Agreement between the State of California Department Of Pesticide Regulation, California Agricultural Commissioners and Sealers Association, And the United States Environmental Protection Agency, Region IX"*. DPR identified it as Priority Investigation Number 38-MON-05.

During the fiscal year, we submitted four *Pesticide Illness Investigation Request for Time Extensions* [PR-ENF-097] for non-priority investigations. All of the requests were submitted to our DPR EBL prior to the expiration of the 120-day time frame.

<u>Planned Improvements</u>
Currently a biologist in the main office is assigned to track investigations and complaints for timeliness. This is accomplished through a series of spreadsheets. We need to simplify tracking and shift responsibility for timeliness to individual supervisors.

<u>Goals and Deliverables</u>
By January 2007, we will develop and implement a simplified procedure for tracking timeliness of investigations and complaints.

Measure of Success
All non-priority illness investigations will be completed and submitted to DPR Worker Safety Branch within 120 days of receipt by the county.

C. Enforcement Response

Enforcement Response Evaluation and Improvement Planning

Current Business Process
All violations are either documented on a violation notice or on an inspection report. When staff finds a violation or non-compliance they check our electronic "Viowarn" spreadsheet to see if there are previous non-compliances and violations. All original inspections and violations are filed in the individual or business's office file in Salinas, so if the Viowarn spreadsheet indicates a history of non-compliances, biologists review our office files to get more information about prior violations and actions. Biologists in branch offices contact the Salinas office to obtain information from the files. We maintain all inspections and violations for two years. We follow the DPR Enforcement Response Policy (ERP) to determine the appropriate enforcement response. After the enforcement/compliance history is reviewed, an incident disposition sticker is completed and attached to the inspection report or violation notice. The incident disposition sticker indicates the class of the violation, whether it is a first or subsequent violation and the appropriate enforcement response. If, according to the ERP, an agricultural civil penalty or decision report is warranted, novice inspectors work with their supervising deputy to develop either a draft Notice of Proposed Action (NOPA) or a draft decision report. Veteran inspectors may draft the NOPA or decision report before talking to their supervisor. All original inspections and violations are collected with inspectors' daily time sheets, and reviewed by the supervising biologist. All documents containing disposition stickers are logged in the Viowarn spreadsheet, as soon as possible after the noncompliance is found, and then filed.

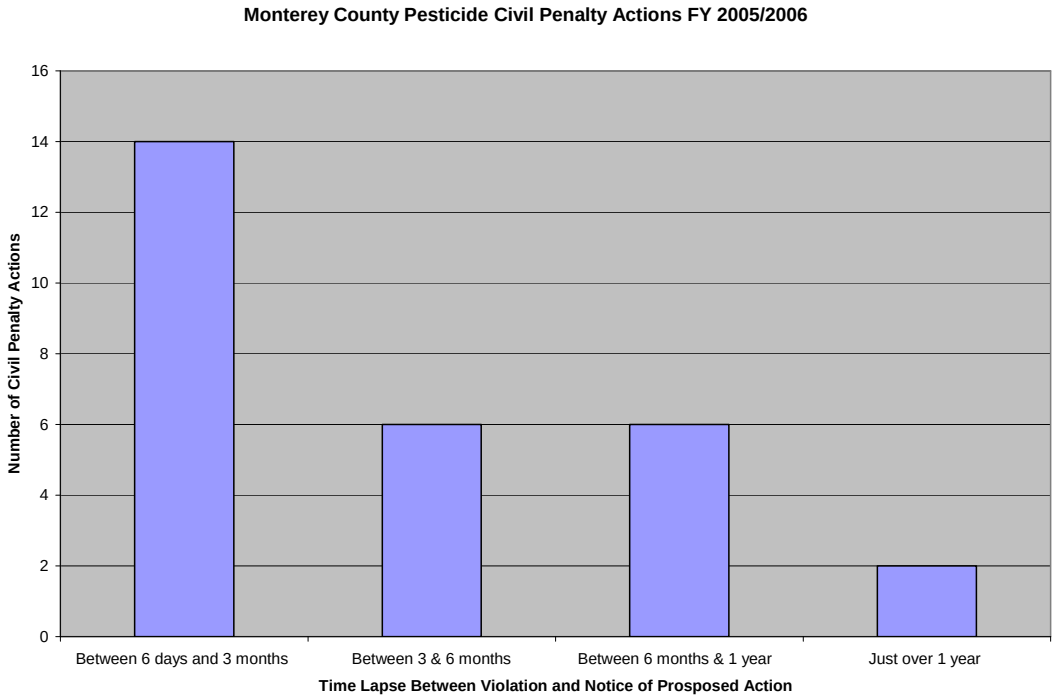
Every Monday morning the supervising deputies meet with the program manager and chief deputy to review pending and draft NOPAs and decision reports. We use a nine step matrix in determining fine amounts within a class. The fine range for each class is divided into 9 steps. When determining the fine amount within a class we initially place fines in the middle of the fine range (step five) prescribed in 3CCR section 6130. Depending upon aggravating and mitigating circumstances the fine level is adjusted within the range. For first time pesticide use report violations, we assess a flat rate of $100 for each year that the reports were not submitted. We keep a log of all fines we levy, sorted by code section violated. For each violation the log indicates the class; the reason for placement in the class; the fine amount charged; and the factors used to determine the fine level within the range. This information is used to help maintain uniformity of our enforcement actions. After a NOPA is approved by the supervising deputies, chief deputy and program manager, it is sent to the commissioner and assistant commissioner for discussion and review. If accepted, the NOPA is signed and sent certified mail to the respondent. A similar system is used for decision reports, however not all decision reports are reviewed by the commissioner and assistant commissioner. After a decision report is finalized, it is signed by the inspector and the supervising deputy; a copy is sent to our DPR Enforcement

Branch Liaison; and the original is filed with the inspection or violation as described above. Supervising biologists alternate taking the role of advocate when a respondent requests a hearing.

2005/2006 Program

Since we implemented the Enforcement Response Plan at the end of August 2005, we experienced a significant increase in the number of civil penalty actions levied by our office. In FY 2004/2005 we levied seven agricultural civil penalty actions for a total of $19,500 in fines. In Fiscal Year 2005/2006 we levied 28 agricultural civil penalty actions for a total of $24,875 in fines. In addition, during FY 2005/2006 we worked closely with our deputy district attorney during two of our investigations, and as a result his office pursued action against the violators from both cases. However, although the actions were initiated during the fiscal year, they were not completed before the end of the fiscal year.

The following chart shows the time it took for us to initiate civil penalty actions after the date of the violation. All were issued within the time frames allowed in 3 CCR section 6130.



In the past, hearing officers from adjacent counties heard our civil penalty actions. In April 2006, we entered into a contract with the Monterey College of Law to provide a third or fourth year law student to act as Hearing Officer for our hearings. From April 2005 through the end of FY 05/06 none of our civil penalty actions resulted in a hearing. However, we anticipate that more actions will result in hearings in coming months. In addition to alleviating the workload associated with hearing officer responsibilities, the use of a law student reduces the likelihood that anyone will challenge the impartiality of the hearing officer.

Planned Improvements

Our current system of tracking violation histories via our Viowarn spreadsheet, while useful, has several drawbacks. First, data entry is done by one individual, to insure consistency and integrity of the data. At one time individual biologists entered the information from their own inspections and violation notices, but despite training, it was difficult to achieve consistency in how violations were entered. As a result we assigned data entry to a single individual, which is a significant workload addition for that person, and often results in a delay between the date of the violation and the date when the violation is logged into the spreadsheet. In a couple of instances during our peak inspection season, this delay has resulted in misidentification of subsequent violations. Anytime a violation is misidentified, the accuracy and fairness of our enforcement response is jeopardized. Second, in order to analyze data in the spreadsheet for purposes other than viewing violation histories, the original spreadsheet must be altered and reorganized, which can potentially endanger the integrity of the data.

To address these drawbacks, we are currently in the process of converting our Viowarn spreadsheet into an access data base. A database will allow us to manage a larger amount of information, and will allow each individual to enter information from their own inspections and compliance actions while maintaining consistency and integrity of the data. We will be able to pre-format how data is entered and utilize look up tables which will shorten the data entry time. We will also be able to query the data in a variety of ways without altering the original tables thereby maintaining data integrity.

Use of a database will also allow us to more easily monitor and reduce the time it takes for us to initiate an enforcement action.

In addition to improving our tracking system, we want to critically review the nine step matrix we use in determining fine amounts within a class, to ensure the fine amounts are commensurate with the magnitude of the violations. At the same time we want to compare our fine levels with those being levied in other counties for the same offenses, to help us determine whether or not our system needs an adjustment.

We also plan to evaluate the wording of our NOPA's, and incorporate some of DPR's suggestions from ENF Letter 2006-34.

Goals & Deliverables

In FY 2006/2007 we will complete development of and begin the use of a data base that will replace our current “Viowarn” spreadsheet tracking of violators. We will use the information in the database to continue to monitor violators and carry out the provisions of the Enforcement Response Policy. We will review our nine step fine matrix and make adjustments as necessary to assure fair, firm, consistent and uniform enforcement. We will revise our NOPA template to incorporate any changes required for clarity and ease of understanding by respondents.

Measure of Success

- The time lapse between when a violation is first documented and when a penalty is levied will be reduced.
- The delay between the date of the violation and the date when the violation is logged into our violation tracking system will be reduced.
- Our NOPAs will be complete, clear and easily understood by respondents.

D. Other Desirable Activities

Educational Outreach

Current Business Process

We conduct various outreach activities throughout the county to distribute regulatory information to regulated individuals, organizations, industries, and businesses; to meet continuing education (CE) requirements for renewal of private applicator certificates and other pest control licenses; and to promote an open dialogue with anyone whose health or environment may be affected by pesticides or pest control activities. Outreach activities include lectures, discussions, workshops, and field days, with a focus on compliance and incident prevention. We utilize bi-lingual inspectors to present outreach activities in English and/or Spanish. We feel that a strong pesticide enforcement program augmented by a public outreach and industry education component results in an increased knowledge, support and understanding of pesticide regulatory requirements.

2005/2006 Program

During the fiscal year, we provided 79 training sessions with 2,017 persons attending. Nine of the sessions were CE trainings presented in English and six were CE trainings presented in Spanish, in December 2005, January and February 2006. In March of 2006 we hosted the 7th Annual Monterey Bay Region AgExpo/AgSeminar, a one day seminar for Spanish speaking growers, including topics such as pesticide incident investigations, pesticide use enforcement inspections, pesticide enforcement response policy, and consequences of illegal pesticide use. In March and May 2006, we hosted a Chemigation Training/Field Day for growers. The class in March was presented in English and the class in May was presented in Spanish. In May 2006 we hosted an outreach for farm labor contractors, custom harvesters and pesticide applicators to work through issues of conflict management and resolution between labor crews and pesticide applicators in the field. In June 2006, we participated in the annual Fumigation Meeting hosted by the California Strawberry Commission. Throughout the fiscal year we also participated in farm worker outreach events at local resource fairs in several smaller communities in the Salinas Valley. At these outreach events we presented information to help workers and the community better understand the role of the County Agricultural Commissioner's office in pesticide enforcement. We also distributed informational flyers from DPR including topics such as What Is A Pesticide?; How To Protect Children For Pesticide Exposure; How To File Pesticide Complaints; and Don't Buy Illegal Pesticide Products.

Planned Improvements

In the past, we had four English and two Spanish outreach CE classes in our King City Branch office. They were small sessions with ten or fewer attendees. Due to reduced resources, we are planning on conducting fewer CE sessions for larger groups of people.

Goals and Deliverables

As time and resources permit, we are committed to continuing pesticide enforcement outreach to the public and regulated community. We will keep an agenda and list of attendees (when possible) for each outreach event during the fiscal year.

Measure of Success

Review of participant comments.