ALAMEDA COUNTY

PESTICIDE REGULATORY PROGRAM

WORKPLAN 2014-2016

A. Restricted Materials Permitting
   1. Permit Evaluation
   2. Site Monitoring

B. Compliance Monitoring
   1. Comprehensive Inspection Plan
   2. Investigative Response and Reporting Improvement
   3. Private Applicator Certification and Operator Identification Number – Use and Issuance

C. Enforcement Response Evaluation

Revised February 2014

Program Overview

The Alameda County Department of Agriculture/Weights & Measures is the local agency responsible for regulating the use of all pesticides including, insecticides, herbicides, fungicides, fumigants, sanitizers and disinfectants. Residential, agricultural, industrial, and institutional uses are routinely inspected for compliance with state and federal regulations. Department staff provides training and advice on pesticide uses, pest management practices, and safety. Our goal is to promote agriculture while protecting the consumer, agriculture worker and the environment.

County Resources

Alameda County is structured with a Pesticide Use Enforcement (PUE) Deputy, as program director and four full-time Agricultural/Standards Investigators (ASI) dedicated to PUE activities in addition to other programs within our department. Three ASI, assigned to the Livermore field station, work PUE approximately 20% of their time. ASI assigned to other units are instructed to perform PUE monitoring inspections as they happen upon an application.

Inspections are tracked monthly by the PUE Deputy. Inspection goals are determined by the previous years' work plan and inspection totals, as well as an analysis of violation trends and any new or changing uses of materials that may pose a high risk to human health or the environment.

A. Restricted Materials Permitting

Permit Evaluation-Process evaluation and improvement planning

Permit Evaluation

The Restricted Materials Permit (RMP) Program provides an abbreviated review procedure that serves as part of the functional equivalent to an environmental impact report, which would normally be required by the California Environmental Quality Act (CEQA). Approximately 120 agricultural and non-agricultural permits are issued in Alameda County each year.

Permit applicants are required to identify all known areas that could be adversely affected by the use of restricted materials. Applicants are required to plan their needs in advance, consider the reduced use of restricted materials, alternatives, and other means of pest control, as well as promote dialogue with people who live/work near application sites before applying for a permit.

ASI in Alameda County are responsible for knowing local conditions and using their knowledge in evaluating the permit application. The ASI determines the appropriateness of whether or not to issue a RMP. The ASI shall determine whether a substantial environmental impact may result from the use of any pesticide before issuing a permit and when evaluating the Notice of Intent (NOI). Only properly licensed and experienced ASI issue permits.

Additional considerations include:

- The necessity of the proposed application;
- Proximity of environmentally sensitive area(s);
- Mitigation measures necessary to minimize adverse environmental impact;
- Pesticide knowledge of the applicator;
- Qualified licensing of the applicant;
- Appropriate conditions or limitations of the pesticide(s); and

- NOI requirements for agricultural and non-agricultural use.

The permit evaluation process includes a review of the NOI for each proposed restricted material application. NOI's are reviewed by an ASI familiar with the proposed application site. Alameda County policy limits RMP's to a period of 12 months or less. All permits expire no later than December 31 of the current calendar year.

Goal and Objective

Alameda County is primarily an urban county with many non-agricultural pesticide applications, primarily residential and landscape use. Agricultural use of restricted materials is primarily non-crop use by government agencies, golf courses, cemeteries, parks and other similar sites. In the tri-valley area of the county there is a thriving agricultural production industry which includes, but is not limited to, vineyards, olive orchards, and production nurseries. For each RMP applicant, the ASI determines if the individual is properly licensed or certified. Alameda County developed a form titled "Application for Restricted Materials Permit" in order to improve and facilitate the permit evaluation process. It was found to be value to our RMP program and is provide to anyone requesting the use of a restricted material. This has helped the ASI assess the need for a RMP, and has improved the county's permit process by ensuring required information is complete, accessible, and available, especially with regards for new permit applications. It also ensures that the information provided by the applicant fulfills all requirements in order to issue a RMP and facilitates communication with the applicant. Other goals are:

- Evaluate the need for each restricted material on application;
- Suggest alternatives, if known, during the application process;
- Review, evaluate, and approve or deny (with reason) the permit application;
- Process the application in a timely manner;
- Review, evaluate, and approve or deny (with reason) NOI's as they are submitted;
- Train ASI on mitigation measures and pesticide alternatives, if any.
- Obtain additional training for ASI on mitigation measures and pesticide alternatives to the use of restricted materials.

Deliverables

- "Application for Restricted Materials Permit" form given to RMP holders;
- Continue working on implementing mapping features available through CalAgPermits to improve accuracy of the information on the RMP;
- Improve dialogue and communication with permit applicants; and
- Expand and increase knowledge of ASI regarding pesticide alternatives, IPM, and pesticides updates.

Measure Success

Perform an annual informal year-end evaluation of the permitting process for deficiencies. Evaluation would include review of issued permits, evaluating the reasons for permit and NOI denials, and any problems noted regarding the use of a restricted material. Discussions regarding the evaluation with licensed staff and the Department of Pesticide Regulation's (DPR's) Enforcement Branch Liaison (EBL) assist in improving the permitting process for the next year.

Program Strengths

- Experienced PUE staff familiar with local area and able to assess the need for restricted use pesticides
- PUE staff familiar with the needs of the regulated public

Program Areas Needing Improvement

- On-going - continue the process of bringing mapping through CalAgPermits into our permit program to better identify proposed use sites
- On-going - evaluation of proposed applications to determine risk and suggest mitigation strategies
- Continuing need - provide staff training regarding alternatives to restricted use pesticides

Site Monitoring Plan

ASI will review all NOI's submitted to determine whether:

- Location and type of application is on the permit;
- Permit conditions met;
- Environmental conditions considered;
- Permit applicant's history of compliance;
- Agricultural or non-agricultural application; and
- Pre-application site inspection warranted.

In all instances, the ASI evaluates the material to be used and the location of any sensitive areas in proximity of proposed application sites. Some of the primary considerations for assessing whether to conduct a pre-application site inspection and/or an application inspection are: the pesticide to be used, toxicity, proximity to sensitive crops and other sensitive sites (areas of environmental concerns e.g. watershed, waterways, endangered species habitat, schools), season, timing of application, whether the permit holder is known to Alameda County, and compliance history of the applicator/company.

Goal and Objective

Licensed staff will monitor permits as required. A minimum of 5% of sites identified in permits or NOI's will be monitored. Monitoring will include evaluating the basis for the intended application, including written recommendations, toxicity of material, and areas of environmental concerns (e.g. endangered species, buffer zone areas, schools, ag-urban interface areas, run-off or groundwater sites). Alameda County will attempt to inspect all non-ag permits holders at least once a year. Permit holders with a record of non-compliance are monitored more frequently.

Deliverables

Aerial applications, structural fumigations and commodity fumigations continue to be high priorities in Alameda County. Structural and commodity fumigations are closely monitored because of the high toxicity of the products used and proximity to occupied structures. Additionally, our goal is to inspect 100% of non-agricultural permit holders once a year. This may not be possible due to scheduling conflicts (e.g. one time applications on weekends).

In assessing the number of NOI's received by this county, consideration must be made of the fact that a proportionally large number of commodity fumigations occur at a limited number of

locations. These locations have been reviewed, permitted, work-site plans developed, and the site evaluated prior to any application occurring. Application inspections are conducted at these locations multiple times throughout the year.

Measure Success

Alameda County anticipates that improvement in the permit evaluation plan, the use of the application for RMPs, thorough site monitoring, the implementation mapping through CalAgPermits, along with compliance monitoring inspections will result in greater compliance with our pesticide use regulations. Continuous evaluation and periodic review by staff and the EBL will help to identify areas for improvement.

Program Strengths

- Staff familiar with local conditions and areas with regards to sensitive sites

Program Areas Needing Improvement

- Continuing - work with EBL on commodity fumigation site evaluations and related permit conditions
- Continuing - work with EBL on the use requirements of phosphine products
- Continue process of utilizing the mapping features available through the CalAgPermits program to better monitor sites.

Private Applicator Certification

Per Title 3, California Code of Regulations (3 CCR) section 6000: provides certification for individual use or supervision of pesticide use for production of an agricultural commodity on property owned, leased, or rented by an individual or employee or for the use or supervision of pest control on property privately owned, leased, or rented by a householder. This certification allows for the use and possession of restricted materials per Food and Agriculture Code (FAC) sec. 14015. The certificate is issued based on passage of an exam proctored by the County Agricultural Commissioner (CAC).

Private applicator certification also qualifies an individual to provide pesticide training to employees, or fulfills employee training requirements for employees. Certification is restricted to property operators, employees or designated employees.

- Prior to allowing an individual to take the Private Application Certification Test, the CAC must determine if the person is qualified as defined in 3CCR sec. 6000.
- The individual fills out the proper DPR Private Applicator Certification and Renewal form (PR-ENF-045).
- An appointment by the applicant is made with the ASI to provide the certification test. The test is given either at the grower's place of business or the CAC office in Livermore, Hayward, or Oakland.
- The ASI proctors the exam while the individual takes the test. If necessary, the test can also be provided orally (but has not been done to date). The ASI then scores the test. A Private Applicator Certificate (PAC) card is issued to the individual upon passing the test (70 percent or better). If applicant is not successful, he is given the opportunity to retake the test after the seven day required period.
- After passing the exam a RMP may also be issued if applicable (see RMP procedure).

The ASI reviews with the private applicator requirements for monthly use reporting, record keeping, employee training (if applicable), inspection procedures, and PAC renewal (including continuing education/ retest) procedures and requirements. Compliance information and instructional materials as appropriate (PSIS, brochures, forms, etc) are also provided.

Operator Identification Number

Operator Identification Numbers (Op ID) are used for the purchase and use of non-restricted pesticides for pest control in production (farms, rangeland, nurseries, etc.), non-production (golf courses, parks, cemeteries, right of ways, etc.) agricultural settings. The Op ID identifies the operator of the property and site specific information. It does not apply to the use of restricted materials (3CCR sec. 6622.) or use of general pesticides in non-agricultural settings (e.g. residential or landscape maintenance for hire). Approximately 175 OP ID's are issued in Alameda County each year.

- Growers contact the CAC to obtain information about application of pesticide(s) on their agricultural property or attempts to obtain pesticides from a wholesale/commercial source and is referred to the CAC for an Op ID.
- CAC identifies applicability of Op ID by obtaining the following information:
    - What is the nature of the Agricultural Operation (production/non-production)?
    - What is or will be planted on the property?
    - What is the acreage?
    - What pesticide will be applied?
    - Is material in restricted use or non-restricted use category?
        - If restricted material, follow protocol for RMP issuance.
        - If non-restricted: Is Op ID for non-restricted rodent bait? Rule of thumb, property should be approximately one acre or more to qualify as a production site (as required by label registration requirements for agricultural use).
        - Is Op ID for general use pesticide?
    - If grower had Op ID issued before, renew Op ID with appropriate changes or updated contact/site information
    - If grower is new, assign new Op ID (following log sheet), get all the information needed for the database (including grid code/township from county map) and issue new Op ID for the year.
- Review Op ID and site information for accuracy. Review requirements for monthly use reporting, record keeping, employee training (if applicable), inspection procedures and Op ID renewal. Provide compliance information and instructional materials as appropriate (Pesticide Safety Information Series, brochures, forms, etc.).

B. COMPLIANCE MONITORING

The goal of our PUE Program is to protect human health and the environment through compliance of pesticide laws and regulations in Alameda County. In pursuit of that goal, we make the most effective use of our available budget and staff. The compliance-monitoring component of the Program serves two purposes: First, it identifies violations of law so that appropriate corrective action can be taken. Second, it identifies compliance problem areas,

enabling us to redirect efforts to where they are needed. Compliance monitoring consists primarily of:

- Inspections and follow-up inspections;
- Investigations of pesticide-related injuries, illnesses, and complaints;
- Review of submitted pesticide-use reports.

Inspections

Licensed ASI conduct scheduled, as well as unscheduled (spontaneous), inspections in accordance with the standards set forth in the Pesticide Use Enforcement Program Standards Compendium, "Volume #4, Inspection Procedures Manual", issued by the DPR. Inspection results, including any violations, are reported on forms provided by the DPR (Form numbers PR ENF-102 through PR ENF-110). The ASI may issue a Violation Notice (PR ENF-101) or a Letter of Warning in response to a violation. In most cases, it will be the inspecting ASI who will perform any required follow-up inspection, and he/she will reference the original inspection on his/her follow-up report. If violations are noted during an inspection, the ASI will discuss with the PUE Deputy how the non-compliance fits DPR's enforcement response matrix. Further enforcement action may be taken.

The AIRS program is being utilized in Alameda County to enhance the tracking of inspections and any non-compliances. Currently, most inspections are being done using the approved DPR forms and then the information is entered by the ASI into the AIRS program. Two ASI have laptop computers that are used in the field and then uploaded into the main program. The Deputy does a monthly query of the data in the AIRS program and the data is used to ensure that non-compliance's are followed up on in a timely manner. Violation notices may be issued directly from the AIRS program.

Alameda County conducts the following types of inspections:

- Pesticide Pre-Application Site Evaluation (for restricted materials);
- Fieldworker Safety Inspections;
- Pesticide Use Monitoring Inspections;
- Commodity Fumigation Use Monitoring Inspections;
- Field Fumigation Use Monitoring Inspections;
- Structural Branch 1 Use Monitoring Inspections;
- Structural Branch 2 & 3 Use Monitoring Inspections;
- Productions Agriculture Pest Control Records Inspections;
- Pesticide Dealer Records/Storage Inspections;
- Pest Control Adviser Records Inspections;
- Property Operator Pest Control Records Inspections;
- Agricultural Pest Control Business Pest Control Records Inspections;
- Structural Pest Control Business Pest Control Records Inspections; and
- Headquarter and Employee Safety Inspections.

Inspections are conducted in the following types of settings:

- Production agriculture (e.g., vineyards, wineries, rangeland, research greenhouses);
- Non-production agriculture (e.g., cemeteries, golf courses, right-of-ways);

- Structural (e.g., Branch I structural fumigations, Branch II general pest control, and Branch III termite control);
- Industrial (e.g., food manufacturing plants);
- Shipping container yards (e.g., fumigations of export cargo, commodity fumigation);
- Residential (e.g., home landscaping, condominium common areas); and
- Institutional (e.g., schools).

We inspect the following persons and businesses:

- Any holder of a RMP or OP ID;
- Growers, production facilities;
- Pest control businesses (PCBs);
- Public agencies (e.g., public works agencies, CALTRANS); and
- Cemeteries and golf courses.

Staff is instructed to perform unscheduled inspections of pesticide use at every opportunity-such as when an ASI happens to drive by an in-progress pesticide application. Unscheduled inspections are important for two reasons: First, we believe they are better than arranged inspections as indicators of actual compliance with pesticide law. Second, in contrast to record audits, for example—they occur in situations where there is potential for actual harm to persons, property, or the environment.

Our ASI review monthly pesticide use reports submitted by PCBs and others. Missing or late reports prompt enforcement action. In addition, other compliance problems may be identified, such as restricted material violations, notification violations, and use of inappropriate pesticides. An inspector will advise his supervisor of these matters for possible enforcement actions.

Goals or Objectives

Alameda County's goal is to increase compliance with pesticide laws and regulations involving pesticide use within Alameda County. We are committed to a pro-active comprehensive compliance inspection program based on: our presence in the field; communication with growers, PCBs, and governmental agencies; and appropriate compliance and/or enforcement action when non-compliances are noted.

Deliverables

- Minimum of 15 pre-application inspections annually.
- Minimum of 25 application inspections (property operator) annually;
- Minimum of 30 application inspections (pest control business) annually;
- Minimum of 150 commodity fumigations inspections annually;
- Minimum of 5 field worker safety inspections annually;
- Minimum of 5 mix/load (property operator) inspections annually;
- Minimum of 10 mix/load (pest control business) inspections annually;
- Minimum of 50 business records (pest control business) inspections annually;
- Minimum of 50 HQ/employee safety records (pest control business) inspections annually;
- Minimum of 5 dealer records inspections annually;
- Minimum of 5 advisor records inspections annually;

- Minimum of 20 HQ/employee safety (production Ag) inspections annually;
- Minimum of 70 HQ/employee safety (other) inspections annually;
- Minimum of 50 application (branch 1) inspections annually;
- Minimum of 25 application (branch 2) inspections annually;
- Minimum of 5 application (branch 3) inspections annually;
- Minimum of 5 mix/load (branch 2) inspections annually;
- Minimum of 2 mix/load (branch 3) inspections annually;
- Minimum of 40 HQ/employee safety (structural) inspections annually;
- Minimum of 40 business records (structural) inspections annually;

In 2012/2013 Alameda County came close to achieving its deliverables. Our inability to meet or exceed those numbers was impacted by a reduction in staff-hours dedicated to PUE activities. Retirements and departures of staff for other reasons caused a reorganization of both our Hayward and Livermore offices which resulted in training for staff newly assigned to PUE activities. In addition, PUE staff was redirected to assist coverage in other programs.

Time spent in PUE was impacted by the increased need for commodity fumigation inspections to facilitate product exports and requests by the public of data on pesticide users. CalAgPermits continues to impact time as staff continues to encourage the use of this web-based program for submission of pesticide usage reports. Staff is learning and using the mapping features of CalAgPermits when issuing RMPs to improve site identification.

The reclassification of diphacinone and chlorophacinone rodent bait products as federally restricted has created an increase in the number of Private Applicator Certificate (PAC) holders in Alameda County. Our department proctors exams, issues and recertifies PAC's. Our staff also conducts continuing education classes to facilitate PAC renewal. Due to the increased number of PAC holders, we now provide 2 continuing education classes each year instead of just one and also provide individual training as requested.

Measures of Success

One measure of success is a decrease in the number of non-compliances. The effectiveness of our compliance activities can be increased by focusing and targeting inspections to address specific non-compliances. Another measure of success would be increased communication with pesticide applicators (e.g. request for training or participation in their employee training program, request for compliance assistance evaluation).

Program Strengths

- Experienced PUE staff familiar with both the FAC and the CCR and who can accurately assess compliance in the field and the office headquarters
- Employ an effective inspection strategy for conducting annual business and worker safety training records inspections
- Experienced PUE staff who has the local knowledge and are able to identify sensitive sites in their district

Program Areas Needing Improvement

- Work with EBL to schedule refresher training in conducting Field Worker Safety Inspections
- Ongoing - Schedule with EBL more oversight inspections (ASI to call with available dates); these oversight inspections include Tier I inspections spread throughout the year.
- Ongoing - Schedule more frequent PUE unit meetings for sharing information
- Ongoing - use of the AIRS program to facilitate and monitor data collection
- Ongoing - small independent growers may be unaware of their regulatory responsibilities. ASI should identify these growers and assist them growers in achieving compliance. Compliance assistance inspections may be scheduled.
- Ongoing - inspections on wineries that use sulfur dioxide (a federally restricted material) as an antimicrobial will be conducted to ensure that requirements for its possession and use are in compliance.

Investigation Response and Reporting

Investigations

The Alameda CAC office is responsible for investigating all pesticide related incidences. These are brought to our attention by:

- Complaints from members of the public (e.g., complaint about a neighbor's activity);
- Complaints referred to us by another agency (e.g., Poison Control Center); or
- A "Doctor's First Report of Occupational Injury or Illness" referred to us by the Worker Health and Safety (WH&S) Branch of the DPR.

The goal is to determine whether the incident is, in fact, related to use of a pesticide, and, if possible, whether a violation of pesticide law occurred.

We strive to begin an investigation within two days of its being received, and to complete it within forty-five days. The ASI gathers facts by interviewing witnesses, making observations at the site, reading product labels and other records, and perhaps taking environmental samples. The ASI submits a report to the Deputy stating, if possible, whether or not a violation occurred and what, if any, enforcement action is recommended. Once the Deputy approves the report, it is sent to the WH&S Branch of DPR via their Secure Access Website (SAWS).

In some cases, we follow up our investigation simply by providing information about pesticide law to an employer. A typical case, might involve an employee's injuring an eye while using a disinfectant. We conclude the investigation by advising the employer of his obligations and informing him that he is subject to future inspection to verify compliance. In other cases, depending on the facts, enforcement action may be considered an appropriate response.

Investigations are important to our compliance-monitoring efforts for two reasons:

- The incidents often involve actual harm to persons, property, or the environment. In such cases, corrective action often is clearly indicated and is meaningful to the parties involved.
- Investigations bring our Department into contact with persons and businesses that we ordinarily would not interact with, thus increasing the scope of our PUE Program.

The procedures that are currently in place for illness/complaint investigations are as follows:

- All complaints are reviewed by the PUE Deputy. After the review it is assigned to an ASI for investigation.
- The assigned ASI will then initiate contact either by phone or in person with complainant and witnesses for an interview. Appointments will be made to provide adequate time to interview the parties. The ASI will interview participants and interested witnesses confidentially.
- After all the relevant information is gathered, the ASI will draft a report. The report will contain a brief summary of the incidence as well as a conclusion, and identify any non-compliance discovered as a result of the investigation. When possible, the report always includes the suspect pesticide including brand names and EPA registration number.
- The draft will be reviewed by the PUE Deputy. After all the corrections are made the report will then be signed by both the deputy and the investigating ASI.
- A copy of the completed investigation report will be sent to DPR WH&S via SAWS.
- The original will be filed in the PUE Deputy's office according to the year the episode occurred.

Goal or Objective

The goal of episode investigations is to gather data to evaluate pesticide use patterns, the effectiveness of the regulatory program, as well as determining appropriate enforcement action. As a result of the investigation process, an evaluation can be made concerning possible use violations, training needs, deficiencies in labeling, or required procedures.

Deliverables

The Alameda County Commissioners office responds to and documents all pesticide related complaints or incidents. The office conducts investigations in a timely manner. Most pesticide episode investigation reports are submitted within 120 calendar days as required by DPR.

Measure of Success

Success can be measured by the results of our yearly evaluation of our investigation and response reporting. Periodic meetings with staff and EBL to discuss any deficiencies or improvements can be the genesis to develop a plan of action to address any weaknesses in our program. The number of returned or incomplete investigations will also indicate the level of success of our program.

Program Strengths

- Ongoing - Document and respond to all pesticide complaints and reported illnesses;
- Ongoing - Initiate investigations in a timely manner;
- Ongoing - Complete investigations in a timely manner;
- Ongoing – use DPR's SAWS program for reading and sending investigations.

Program Areas Needing Improvement

- Continued training of staff to improve investigation and reporting skills;
- Review criteria that triggers priority investigations;
- Develop and/or improve existing templates for basic investigation reports;
- Reduce initiation and completion times to improve evidence gathering;

- Complete report preparation, that includes all suspected and actual violations found;
- Ensure that illness investigations are submitted on time or that an extension is requested;
- Keep an illness/complaint log;
- Poison Control Center notification data is incomplete which means more time and work needed to find contact information if it is available.

C. Enforcement Response Evaluation

Non-compliances are identified through our normal pesticide program of inspections and investigations. Should non-compliances be noted, the inspecting ASI reviews past inspections, history of the company, response or lack of by the company or person, and applies the directives of the Enforcement Response Regulations (ERR). If applicable and reasonable, a Decision Report (DR) is written explaining why enforcement action was not taken; otherwise a Notice of Proposed Action (NOPA) is developed. The DR is reviewed by the Deputy and either accepts or revises the action to be taken according to all available evidence.

The ERR matrix is considered when making decisions as to what action to take and at what level. Fine guidelines, if needed, are used in accordance with 3CCR section 6130.

If a DR is issued, non-compliances are followed up either with a violation notice or warning letter, and a follow-up inspection is scheduled. When deemed necessary, either due to the seriousness of the violation or the history of the company, stronger action may be taken through a Compliance Interview, civil penalty enforcement, referral to the DPR or the California Structural Pest Control Board (SPCB) for licensing action, or referral to the District Attorney.

Compliance Action

Inspections

Any non-compliance noted on an inspection form may be handled by communicating directly with the applicator, their supervisor, and/or the owner of the company. The nature of the non-compliance and the course of action to correct the problem will be discussed.

Compliance actions may include violation notice, warning letter, documented compliance interview or a non-compliance noted on an inspection form. They may also include public protection actions such as cease and desist orders; seize or hold product or produce orders; and prohibit harvest orders. These actions may be appropriate for Class C violations or first time Class B violations.

If the violation is a Class C violation, and there has not been a compliance action for a violation in the same class within two years of the current alleged violation, then a compliance action maybe taken without a written DR. A DR is required when a compliance action is taken for a violation in which there was a previous compliance action taken within two years of the current alleged violation. A DR is required for all compliance actions taken for Class B violations.

Warning Letters or Violation Notice
The compliance form to use is at the discretion of the ASI /Deputy. When possible, the letter/notice is hand delivered to the offender at which time the ASI has the opportunity to discuss the preventative course of action that the offender will take for the future.

Compliance Interview
When stronger action is needed to gain compliance, a documented compliance interview may be conducted. The offender is given a date and time to appear in our office in order to explain the violations that occurred and to hear what remedies will be taken to prevent further problems. The Sections that were violated are listed and the offender signs a form stating that he understands the need to prevent further violations.

Enforcement Action
Civil Penalty Actions
Examples of non-compliances that would indicate a need for a civil penalty action on the first violation would include violations which jeopardize the safety/health of employees, the environment or others, failure of a licensed pesticide user to obtain permits, register in a county, report use, etc. Violations which cause actual human death or serious illness, or substantial environmental or property damage will be considered for other civil, criminal or administrative actions on the first violation.

The fine level for Civil Penalty actions will be in compliance with 3CCR section 6130 for agricultural violations or Division 16, section 1922 of the Business Profession Code of the Structural Pest Control Section for structural violations. The facts of each situation must be applied logically to determine which Class a violation would fall into and at what level within each Class.

A NOPA is mailed to the respondent via Certified mail. The respondent has three options:

- Sign and return the Order/Stipulation and Waiver Order to Alameda County with appropriate payment or fine. No appeal of the Proposed Action.
- Respondent requests a hearing. They have the right to review and present evidence to a Hearing Officer. The Hearing Officer writes a Notice of Decision which may be appealed. If not appealed, the respondent pays the fine. If appealed, the respondent submits a written request within 10 days of receiving the Commissioner's decision. The Director hears oral or written arguments and gives a written decision (within 45 days if written argument or 15 days if oral argument) to the Commissioner and the Respondent. There are still appeal rights through the judicial system.
- The respondent requests a hearing but fails to appear. A Notice of Decision is rendered by the Hearing Officer. The respondent has no appeal right after the Notice of Decision and must abide by the Hearing Officer's decision (pay fine).

Referral to DPR or the SPCB
The CAC has the option of referring cases to DPR or SPCB for licensing action, if the violation is severe enough to warrant such action.

Referral to the District Attorney's Office
The CAC has the option of referring cases to District Attorney's Office for civil or criminal action, if the violation is severe enough to warrant such action.

Further Action Enforcement Letter
Further Action Enforcement Letters will be sent to PCBs that fail to correct non-compliances associated with the issuance of two NOPAs within two years time. These letters will state that non-compliances occurring within two years of a second NOPA may have enforcement action turned over to the District Attorney or may receive State action associated with licensing, in addition to a NOPA at an increased fine level.

Goals and Objectives
To achieve compliance and have equitable enforcement of the laws and regulations that pertains to the use of pesticides in Alameda County. To ensure that all parties involved are provided with basic due process rights.

Deliverables
The ASI takes into consideration all possible forms of enforcement as described above. A calendar is displayed in the PUE Deputy's office to list important dates for pending actions, as well as a log noting the case number; company name; date of the NOPA; date of Stipulation, or date of hearing request; and date of the Notice of Decision (or withdrawal). Confer with EBL as to appropriate course of action for Class A and serious Class B violations.

Measure Success
Success can be measured by the compliance history following a compliance or enforcement action. Success may also be measured by the compliance of others not directly involved by our enforcement response (e.g. word-of-mouth). Emphasis will be on identifying, monitoring and deterring "repeat" violators through both compliance monitoring and proper enforcement action.

Program Strengths
- Thorough investigative report, including an outline of the "elements of a violation", to serve as the foundation for Agricultural/Structural Civil Penalty (ACP/SCP), should the action be warranted;
- Strict use of the ERR;
- Good communication between ASI, Deputy, and EBL;
- Flow-chart/Matrix developed to clearly explain ERR to ASI and regulated public.

Program Areas Needing Improvement
- Improve timeliness in decision making process of when to use ACP/SCP;
- Provide more training in case preparation, including witness preparation, advocate skills, and evidence presentation;
- Confer more often with EBL on DRs and when considering enforcement action, especially Class A and/or B;
- Confer with District Attorney's Office, if appropriate, when Class A violations are identified;
- Develop templates for DR to ensure that all applicable areas are addressed.