

# MONTEREY COUNTY

AGRICULTURAL COMMISSIONER/SEALER OF WEIGHTS & MEASURES  
ERIC LAURITZEN, AGRICULTURAL COMMISSIONER/SEALER  
1428 ABBOTT STREET - SALINAS, CALIFORNIA 93901  
PHONE: (831) 759-7325 FAX: (831) 422-5003  
WEBSITE: [www.ag.co.monterey.ca.us](http://www.ag.co.monterey.ca.us)



## MONTEREY COUNTY PESTICIDE USE ENFORCEMENT WORK PLAN 2015 - 2017

The Monterey County Agricultural Commissioner's Office is dedicated to protecting worker health and safety and public welfare; protecting agricultural and environmental resources; and assuring consumer and business confidence in the marketplace in Monterey County.



**NORTH COUNTY OFFICE**  
417-A SALINAS ROAD - WATSONVILLE, CA. 95076  
PHONE: (831) 724-5025 FAX: (831) 724-6935



**SOUTH COUNTY OFFICE**  
522 N 2ND STREET - KING CITY, CA. 93930  
PHONE: (831) 385-5266 FAX: (831) 385-0551

## **Pesticide Use Enforcement Personnel Resources**

The pesticide use enforcement (PUE) program in Monterey County is currently supervised under two Chief Deputy Agricultural Commissioners and four Deputy Agricultural Commissioners. The main office of the Agricultural Commissioner is in Salinas, and there are two Branch offices, one in King City (South County), and one in Pajaro (North County). Staff in the pesticide enforcement unit in the main Salinas office is dedicated to working in pesticide enforcement, and only occasionally help in other departmental programs. 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.

One licensed PUE inspector biologist is on office duty eight hours per day in all three of our offices assisting customers, scheduling appointments, answering phones, maintaining files, and preparing and sending letters and correspondence.

Over the course of our last work plan (2012–2014), seven trained and licensed PUE inspectors left county employment and four were promoted (three to Deputy positions and one to a Programs Biologist position). We hired 11 new biologists, 9 of which were assigned to work in PUE. Seven PUE inspectors were off on maternity/paternity leave for various intervals from two to five months. Two inspectors and one deputy were on medical leave for various intervals from 2 to 9 months.

From calendar year 2011 through calendar year 2014 there was an overall decrease in our licensed PUE time by close to 3,000 hours:

	2011	2012	2013	2014
Licensed Hours	30,515	28,853	28,177	27,614
Support Hours	11,325	8,912	9,072	8,976

During 2015 we expect to hire at least one inspector/biologist to fill a vacant position in our South County office.

In 2014, we added a second deputy to our PUE unit in Salinas, due to the ever increasing workload associated with supervising field staff; employee training and development; coordinating continued education and outreach; reviewing inspection reports, compliance actions and decision reports; researching and answering program questions from staff and the public; overseeing enforcement actions; writing legal documents associated with civil penalty actions; advocating at civil penalty hearings; and training, tracking, writing, editing and reviewing pesticide investigations. The two deputies are working together under a collaborative leadership method, where PUE supervisory duties are equally shared by the two supervisors leading the PUE unit from a team approach.

### **Current PUE Staffing Levels**

#### **Supervisory & Management (6)**

- Chief Deputy Agricultural Commissioner: *1,900 hours*
- Chief Deputy Agricultural Commissioner: *625 hours*
- Deputy Agricultural Commissioner: *1,800 hours*
- Deputy Agricultural Commissioner: *1,800 hours*
- Deputy Agricultural Commissioner: *1,300 hours*
- Deputy Agricultural Commissioner: *900 hours*

#### **Agricultural Inspector/Biologist I (5)**

- Two Spanish/English bi-lingual have both PUE licenses: *3,600 hours (1,800 hours each)*
- Has both PUE licenses *1,800 hours*
- Spanish/English bilingual has one PUE license: *1,800 hours*
- Spanish/English bilingual is not yet licensed: *1,800 hours*

#### **Agricultural Inspector/Biologist II (1)**

- Has both PUE licenses: *1,500 hours*

#### **Agricultural Inspector/Biologist III (7) – Have all CDFA Inspector Biologist Licenses**

- *1,800 hours*
- *1,800 hours*
- *1,500 hours*
- *250 hours*
- *250 hours*
- Spanish/English bilingual *700 hours*
- Spanish/English bilingual *1,800 hours*

#### **Support Staff**

**Information System Coordinator:** provides computer support and supervision pesticide use report data entry staff.

**Data Entry Staff:** one full-time employee.

**Geographic Information System (GIS) Analyst:** provides GIS data and map production support to PUE staff dealing with ranch maps, investigations, sensitive sites and endangered species areas.

**Clerical Support:** three Office Assistants based in Salinas provide intermittent office support for PUE staff in the Salinas, North County, and South County offices.

**Accounting Staff:** an Accountant and a Senior Account Clerk provide staff support managing financial transactions including civil penalty fines, bait sales, registration and exam fees.

### **Equipment**

All inspector/biologists working in PUE are assigned a county four-wheel drive pickup truck, a desktop computer and desk phone. The vehicles are equipped with personal protective equipment and investigative sampling supplies. All inspector/biologists have a cell phone, and are assigned various field equipment including binoculars, wind gauges, digital cameras, 100 foot measuring tapes, measuring wheels, thermometers and compasses. All inspector/biologists have access to GPS units, and fumigant detection devices.

Each of our three offices has a Windows based tablet PC and portable printer available for staff to use during field inspections. The tablets run the Automated Inspection Reporting System software. Most of our inspectors prefer to document inspections by hand because they report that the tablets are large, heavy and difficult to use in bright sunlight because of glare on the screen.

### **Core Program Areas**

#### **Restricted Materials Permitting**

*Permit -Process Evaluation and Improvement Planning*

#### **Annual Permit and Operator Identification Number (OIN) Issuance Statistics**

	2012	2013	2014
Restricted Material Permits			
Agricultural	691	840	638
Non-agricultural	60	28	25
Multi-year	173	173	175
Operator Identification Numbers	203	266	369

#### **Current Business Process**

Most 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. Multi-year permits also expire on January 31.

We have been using the web based CalAgPermit System (CAPS) since November 2011, to issue all restricted material permits and OINs.

Annual permit issuance and site evaluation training is given by a Senior PUE Biologist in our Salinas office; one of the PUE Deputies; the Chief Deputy; and/or the DPR Enforcement Branch Liaison (EBL).

- 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. 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 determine whether they are 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. Certification numbers are recorded on the permit along with certification expiration dates.
- Individuals wanting to be certified as private applicators meet with a licensed PUE 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-PML-045). Biologists review the application with the applicant, to determine if the individual is qualified to take the private applicator certification (PAC) examination. If biologists determine that an applicant is a commercial applicator rather than a private applicator, they explain the DPR licensing program and provide copies of licensing applications. Staff utilizes a PAC database to track individuals and ensure each PAC has a unique PAC number. Staff administers the PAC examination developed by DPR, according to DPR's procedures. A copy of the certification 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.
- Each year we hold continued education classes for private applicators. In December 2014, we held four classes in English and four classes in Spanish with two hours of DPR approved continued education credit. These classes give us an opportunity to ensure our growers and applicators receive the most current information about pesticide regulatory changes, common violations to avoid, and enforcement actions.
- Biologists use the eight step overview from page 7-7 of the Pesticide Use Enforcement Program Standards Compendium Volume 3 as a guide to ensure they address all functional equivalency evaluation requirements of the California Environmental Quality Act Environmental Impact Report 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 Permit/OIN Renewal to assure applicant interviews are thorough, and site map reviews are comprehensive. Staff use aerial photographs from the GIS portion of CalAgPermits in conjunction with actual field knowledge and the Check List during the evaluation of each proposed application site before a permit is issued. The checklist is updated each year prior to permit season.

- Our GIS Analyst uses the CAPS GIS ranch data to create a dataset of all agricultural entities in our county. That dataset is edited and formatted to produce the Monterey County Ranch Map, an atlas displaying all of the ranch boundaries throughout Monterey County. The Ranch Map is published by our office every two to three years from data collected the previous year. Digital copies of the map are available free of charge on our web site. CDs and hard copy atlases are available to the public at each of our offices for a minimal fee to cover production costs.
- Staff identifies hazards of unfamiliar restricted materials by reviewing the pesticide labels and the California Restricted Materials & Hazard Assessment document our office which was updated and revised in 2014. Based on the hazards of the materials and the location of sensitive areas around each application site biologists assess the likelihood of an adverse impact from the proposed application. Sensitive areas include areas such as those containing bystanders or field workers; areas near schools, residences, bus stops, roads; and areas that contain animal habitat, water bodies, and other environmentally sensitive sites including dissimilar agricultural crops. When there is a sensitive area near a proposed treatment site, we presume that an adverse environmental impact is possible. At that point, the issuing biologist determines whether 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.
- Biologists are using CalAgPermits to add custom conditions to a permit when specific pesticides are added to that permit. These conditions may 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.
- Permit denials and refusals are recorded on the form suggested by DPR, which explains applicants' due process rights. A copy of every permit refusal and denial is kept on file in the Salinas office for two years.

- Staff consults with the University of California Cooperative Extension and various commodity and industry organizations to augment their knowledge of local conditions and alternatives as needed. The PUE deputy, chief deputy and/or PUE biologist(s) attend the bi-monthly Coast Area Pesticide Enforcement Group meeting to share information and strategies on evaluating restricted material permits and developing reasonable and effective permit conditions.
- All fumigants are removed from each permit at renewal and must be individually added later in the season to enable staff to better oversee and enforce compliance for all fumigant applications.
- 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. Permit amendments are entered into CAPS, but new permits are not printed out.
- Biologists are responsible to check every permit they issue to ensure permits are correct and complete. Permits are again reviewed for correctness and completeness after issuance and before filing. The lead biologist and PUE deputy review all of the permits issued in Salinas, and the branch deputies review the permits issued in the branch offices.

### **Planned Improvements**

Field soil fumigant label changes, the increased use of the soil fumigant chloropicrin and increased concerns over potential hazards associated with the use of field soil fumigants has resulted in a significant increase in staff workload over the past few years. The education of growers on field soil fumigation requirements; issuance of field soil fumigation permits; review of fumigant work plans; and the evaluation of proposed fumigant sites have of necessity become increasingly complicated and time consuming. Every year there have been significant changes in the permitting process for the use of field soil fumigants, which results in the continual updating, revising and refining of our permit conditions. Keeping staff trained and up to date on the new requirements; developing the tools necessary to implement the changes; and communicating the changes and new requirements to growers has become our focus, and will continue to be our focus in the coming years.

We review all of our permit conditions annually and make revisions as needed. During permit and OIN issuance we will continue to emphasize effective communication between growers and their neighbors, especially when farming adjacent to residences, schools, or other businesses. We will also continue to emphasize effective communication with farm labor contractors and other contract workers who may enter or work in or adjacent to properties where pesticides are applied.

### **Goals and Deliverables**

- Update permit conditions as needed to reflect changes in pesticide laws and regulations and DPR suggested permit conditions.

- Continue to train staff in the use of CalAgPermits, and work to ensure consistency and effectiveness of the permitting process.
- Identify errors or omissions in the permit issuance process and correct them through individual inspector and staff training

**Measure of Success**

- Find fewer errors and omissions in permits issued by our office.
- Increased ability to gather and use information obtained by CalAgPermits Program.
- Current, up-to-date permit conditions.
- Fewer neighbor complaints.

*Site Evaluation-Process Evaluation and Improvement Planning*

**Annual Notices of Intent and Pre-application Site Inspections**

	2012	2013	2014
Notice of Intents	11,542	12,410	10,860
Pre-application Site Inspections Agricultural	878	667	798

In 2012 and 2014 we monitored more than seven percent of the sites identified in the notices of intent. In 2013 we monitored just over five percent of the sites identified in the notices of intent. The percent of our pre-application site inspections decreased in 2013 due to staffing changes (separations, transfers, maternity leaves, promotions and new hires); however we still met the monitoring requirements of 3 CCR section 6436.

**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 routinely accept NOIs by telephone or email. We do accept some field soil fumigation NOIs by email. 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 biologists review NOIs to determine if they are complete; consistent with the permit; whether any environmental conditions have changed since the permit was issued; and whether 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, minor errors are found, biologists contact the operator of the property or the pest control adviser to correct the problem. If a complex or serious error is found, biologists deny the NOI, document the denial on the NOI form, and issue a

written permit refusal on the suggested DPR form. The permittee is contacted and provided with the written permit refusal which explains their due process rights. If the permittee does not request a hearing within 20 days, the refusal is filed in our permit denial folder and a copy is filed in the permittee's folder.

- In determining which proposed applications require a pre-application site inspection staff consider the location of the proposed application in relation to sensitive sites (e.g., residences, schools, hospitals, field crews, bystanders, 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 history and meteorological conditions. We strive to monitor 100% of NOIs received for fumigant applications of methyl bromide, chloropicrin, 1,3-D and methyl isothiocyanate (MITC) generating fumigants.

**Goal and Deliverables**

- Continue to perform pre-application site inspections on at least 5% of the sites identified in the NOIs we receive and ensure that a valid Restricted Materials Permit exists for each application and site identified in NOIs.
- Conduct on-site monitoring of all non-agricultural Restricted Material Permit holders each year

**Measure of Success**

We will compare the number of NOIs received with the number of site evaluations completed, on a monthly basis to ensure that we conduct site evaluations on at least 5% of the NOIs we receive, and all non-agricultural permit holders. Throughout the ongoing evaluation of our site-monitoring plan, we will adjust inspector field activities as needed to achieve our goal.

**Compliance Monitoring**

*Pesticide Use Monitoring and Record Inspections Evaluation and Improvement Planning*

**Annual Compliance Monitoring Statistics**

	2012	2013	2014
Inspections			
Fumigations	169	169	263
Applications	273	208	213
Property Operator	191	126	121
Pest Control Business	82	82	92
Mix/Load	95	84	100

Property Operator	45	34	40
Pest Control Business	50	50	60
Structural	26	25	22
Records	112	108	89
Field Worker Safety	202	98	132

In 2013 the number of field worker safety inspections decreased due to a lack of Spanish bilingual inspectors. One Spanish bilingual inspector left county employment; one was on extended maternity leave; one was temporarily reassigned to our north county office; and one was promoted to a new position. In 2013-14 we hired three new Spanish bilingual inspectors.

### **Current Business Process**

- New staff is trained in conducting pesticide use monitoring and record audit inspections through mentoring/on-the-job-training where they are assigned to ride along with veteran biologists or their supervising deputy. In addition, at least once a year all staff working in PUE receives formal classroom training under direction of DPR and/or the program and chief deputies. Staff also receives refreshers and updates through 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. When in the field on surveillance inspectors carry Volumes 2 and 4 of the Pesticide Use Enforcement Program Standards Compendium as well as a supply of inspection forms. DPR EBLs are welcomed and encouraged to conduct oversight inspections with all PUE biologists.
- All biologists have access to DPR's Enforcement Letters. When new letters are e-mailed to our office, we forward 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.
- The supervising and program deputies do a quality control review of all inspection reports completed by staff, to verify that the appropriate inspection procedures are followed and to give feedback for training purposes. Each biologist is responsible to track and conduct follow-ups on their own inspections. Supervising deputies have regular meetings with individual biologists to discuss workload and follow up activities, to assure follow up inspections are completed in a timely manner.
- Regarding 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 also look at areas and types of inspections with the lowest compliance rates. We direct biologists to prioritize inspections of private applicators; to take alternate routes during surveillance and survey application sites that are not visible from main roads. The pesticide, supervising and chief deputies develop work target numbers for the biologists from the goals in our work plan. Throughout the year, the deputies monitor inspection types and numbers, and adjust

biologist's target numbers. Our office uses the County Agricultural Records & Tracking System from Statewide Soft on a single database to track PUE workload.

- Biologists working in the branch offices are assigned daily pesticide surveillance work on a 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 (“early-start”) several days each week, as well as staff assigned to work surveillance on weekends.
- During routine inspections, noncompliances are documented by checking the criteria box, “No”; by checking the “Violation” box, “Yes”; and explaining the violation further in the “Remarks” section of the inspection form. (We generally do not issue a violation notice, warning letter or conduct a documented compliance interview in addition to the noncompliance documented on the inspection report.) During the inspection closing interview, biologists review the noncompliances with the responsible person (owner or manager). If the responsible person is not onsite 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(s) to the responsible person, biologists provide them with a copy of the inspection form. All warnings are documented on the inspection form.
- We use a Fumigation Inspection Team, consisting of five inspector biologists to oversee and enforce compliance for all field soil fumigations. The group also handles all of the following for the Salinas office: fumigant work plans; pre-application site inspections; and most field soil fumigation inspections.

**Planned Improvements:**

We want to continue our focus on the areas of highest noncompliance, by directing most of our non-fumigation pesticide use monitoring inspections to property operators’ employee handler applications. We will also continue the Fumigation Inspection Team and focus inspection and monitoring activities on field soil fumigations. Depending on staffing levels, during the spring and early summer we will implement a “late-start” inspector in addition to our “early-start” inspector. The late-start inspector will work in the late afternoon until dark, to focus on pesticide applications that are made after field crews leave the fields for the day.

Throughout the 2012 – 2014 work plan, we were consistently unable to meet our yearly inspection goals in most categories. This was due in part to reduced staffing levels, leaves of absence, and training new employees. However, it was also due to the increased time inspectors are required to spend in the office evaluating field soil fumigation work plans; writing complex investigative reports on priority investigations involving large numbers of affected persons; preparing and executing agricultural civil penalty actions and enforcement actions.

Consequently for the 2015-2017 work plan we reduced some of our inspection goals to better reflect the amount of field work staff is actually able to complete during a year. Notably we reduced the number of Adviser and Dealer Record Audits inspections. The reduction is based on the lack of non-compliances found during these inspections. Most companies submit the adviser's recommendation with or as the NOI, so staff routinely reviews adviser recommendations.

**Goals & Deliverables**

The following table shows our work plan inspection goal numbers by inspection type:

<b>2015 - 2017 Yearly Work Plan Goals</b>						
	Fumigations	Mix Load	Applications	Records	Structural	FWS
Field	200					
Commodity	5					
Property Operator		50	140			
Pest Control Business		55	95			
Branch 1					20	
Branch 2					7	
Branch 3					0	
Production Ag HQ EMP Safety				70		
Other HQ EMP Safety				6		
Dealer				1		
Adviser				0		
PCB Ag Records				5		
PCB Structural Records				4		
Ag PCB EMP HQ Safety				5		
SPCB EMP HQ Safety				4		
Field Worker Safety						175
<b>Total Goal</b>	<b>205</b>	<b>105</b>	<b>235</b>	<b>95</b>	<b>27</b>	<b>175</b>



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. Whenever an investigation is conducted, an investigative report is completed. All pesticide investigations are documented on PR-ENF-127, or PR-ENF -182 as appropriate.

- When we are notified of a pesticide illness or other pesticide episode requiring a full investigation, the information is recorded on our Investigation Tracking Log. Staff is assigned investigations on a rotational and work load basis. If the incident occurred in the geographic area of one of the branch offices, the information is sent to the supervising deputy of that office and he or she will assign the investigation to a biologist.
- Upon completion, the supervising deputies review investigative reports before submission to DPR. The chief deputy reviews all priority investigations before they are submitted.
- Since October 2010, Monterey County has successfully participated with DPR Worker Safety and Information Technology Branches on the Secure Access Website process (SAW), for sending and receiving electronic files containing confidential medical information. SAW allows for exchange of electronic files between DPR and CAC while protecting confidential medical information contained in these files, while speeding up file exchange.
- Although we initiate all non-priority investigations immediately, we have had difficulty completing reports within the 120 day time frame outlined in DPR Compendium Volume Five, Investigation Procedures. As soon as we discover that we will be unable to meet the deadline, we immediately notify our Enforcement Branch Liaison (EBL) and request an extension on form PR-ENF-097.

### **Planned Improvements**

We expect that with the addition of the second deputy in the PUE unit the number of requests for pesticide illness investigation time extensions will decrease. As new staff becomes more proficient in investigations and report writing, we plan to implement a peer review process for draft investigative reports.

### **Goals and Deliverables**

We will continue to train new and seasoned staff in investigative techniques, sampling and investigative report writing. We will submit the majority of our non-priority investigative reports to DPR within 120 days of WH&S assigning a case number. We will immediately notify our Enforcement Branch Liaison (EBL) and request an extension for those investigations that cannot be completed by the established date. By the end of 2016 we will assign at least one inspector to assist his or her peers by reviewing draft investigations before submitting for supervisor's review.

### **Measure of Success**

The majority of non-priority illness investigations will be completed and submitted to DPR Worker Safety Branch within 120 days of receipt by the county. For those investigations that

cannot be completed by the established date, we will request an extension. Investigations will become more streamlined and require less editing by supervisors.

**Enforcement Response**

*Enforcement Response Evaluation and Improvement Planning*

**Annual Enforcement Response Statistics**

	2012	2013	2014
Enforcement Response			
Decision Reports	61	34	36
Civil Penalty Actions	32	26	17
Civil Penalty Hearings	4	4	3

**Current Business Process**

All of the biologists working in PUE receive "in-house" training. They also attend DPR provided trainings when available. When training needs are identified by the pesticide deputy, supervising deputy, or DPR, all parties consult to determine the best way to meet the training needs.

All violations are documented either on a violation notice or on an inspection report. When staff finds a violation or non-compliance they check our electronic "Viowarn" Access database 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. When the Viowarn database indicates a history of non-compliances, biologists review the 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 maintain enforcement histories for two to ten years. We follow 3 CCR section 6128 to determine the appropriate enforcement response. After the enforcement/compliance history is reviewed, an incident disposition sticker is completed and attached to the back of 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 section 6128, 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. Experienced inspectors may draft the NOPA or decision report with minimal supervision. All original inspections and violations are collected with inspectors' daily time sheets and reviewed by their supervising deputy. All documents containing disposition stickers are logged in the Viowarn database as soon as possible after the noncompliance is found and then filed.

Supervising deputies and the chief deputy regularly meet to review pending and draft NOPAs and decision reports. Fine amounts are set within a class using our fine matrix. The matrix

divides the fine range for each class into six steps. When determining the fine amount within a class we initially place fines at the bottom of the fine range prescribed in 3 CCR 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 \$100 for each year that the reports were not submitted. We keep a log of all civil penalty actions in our Viowarn database, and can print reports 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. We use this information to help maintain uniformity of our enforcement actions. After the supervising deputies and chief deputy review and agree on a NOPA, it is given to the assistant commissioner and commissioner for discussion and review. After the proposed action is finalized and approved, the commissioner signs the notice and it is sent certified mail to the respondent, along with a copy of DPR's "Preparing for Your Administrative Hearing" brochure. Supervising and chief deputies alternate as county advocate when a respondent requests a hearing. We have 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. In addition to alleviating the workload associated with hearing officer responsibilities, the use of a law student assures complete impartiality of the hearing officer. When students are not accessible the faculty advisor acts as our hearing officer. We send the hearing officer and/or the faculty adviser to DPR Hearing Officer Training when available.

Decision reports (DRs) are handled in a similar manner as NOPAs; however, the assistant commissioner and commissioner do not review all decision reports. After a decision report is finalized, it is scanned and e-mailed to our DPR Enforcement Branch Liaison. A Salinas PUE deputy holds the original, until either DPR notifies us or 30 days passes. After receiving notice of DPR concurrence, or after 30 days (whichever occurs first), the report is attached to the inspection or violation and put in the respondent's file.

### **Planned Improvements**

We continually revise, update and improve all of the templates we use to write NOPAs and Decision Reports. At our bi-monthly meeting with the coast area deputy agricultural commissioners and DPR EBLs, we share ideas on how to make NOPAs and Decision Reports easier to read and understand. We then incorporate the best suggestions into our documents. We will continue to make changes to improve our documents. We will continue to send PUE inspectors to DPR advocate training when it is offered. We will also continue to provide opportunities for our senior PUE inspectors to serve as co-advocates, with the expectation that they will serve as main advocates in the future.

### **Goals & Deliverables**

We will continue our current business processes to ensure uniform, predictable and fair enforcement in Monterey County. We will update our NOPA and DR templates as needed. We will continue to provide on-the-job hearing advocate training for senior biologists.

### **Measure of Success**

- Our NOPAs will be complete, clear and easily understood by respondents.
- We will have a larger pool of advocates to pull from when we get a hearing request.

## Other Desirable Activities

### Educational Outreach

#### Annual Outreach Statistics

	2012	2013	2014
Enforcement Response			
Training Sessions	64	84	57
Persons Attending	2,350	2,824	2,660

#### 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 Spanish bilingual inspectors to present outreach activities in Spanish as needed. 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.

In addition to the continued education classes we provide every year, in 2014 our staff gave presentations on pesticide laws and regulation at more than a dozen industry hosted meetings throughout the county, as well as at several grower seminars and field days hosted by the University of California Cooperative Extension. In March we held our 16<sup>th</sup> Annual Ag Expo Seminar, a full day seminar for Spanish speaking growers and workers, which focused on pesticide emergency response; pesticide safety; LBAM management; erosion and hillslope farming; irrigation management and water conservation; and fertilizer management in strawberries. In May we held our annual Critical Field Communications workshops, where we bring together farm labor contractors, growers, pest control advisers and pest control businesses to discuss common issues and concerns regarding pest control activities around field crews. We hold two sessions, one in English and one in Spanish. During the year staff spoke in various pest control classes and events hosted by the local junior college and at several career days at several local elementary and middle schools. Our Spanish bi-lingual staff assisted Martha Sanchez, DPR Worker Health and Safety Branch, at five migrant worker outreach fairs during the year throughout the county.

Starting in 2012, our office began working collaboratively with other local agencies, DPR, the Central Coast Water Quality Control Board, the University of California Cooperative Extension

and others as members of the Central Coast Chlorpyrifos Technical Advisory Committee to address surface water quality issues on the central coast.

In 2014, our office formed a Farmworker Advisory Committee in cooperation with the Center for Community Advocacy (CCA) to facilitate a direct dialogue between our office and the farmworker community. The committee gives our office direct access to community leaders; to their concerns and to their suggestions. We believe this ongoing interchange and will help us fulfill our obligations to the farmworker community and to the agricultural industry.

### **Planned Improvements**

We will continue to meet regularly with the members of the Farmworker Advisory Committee and work to create meaningful two-way communication; build trust; and discover win-win solutions to common concerns based on mutual respect and appreciation. We will continue to revise and update the presentations we give at our outreach events as new issues and regulations arise. We will continue to participate with other governmental and non-governmental organizations to address surface and ground water issues on the central coast. We will continue our outreach and compliance monitoring activities regarding pesticide applications near schools. In addition, with heightened governmental and non-governmental organization attention on pesticide use around schools, our office will continue to actively participate in the development of new laws and regulations.

### **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 each year. We will update our Web site with new or revised information and forms at the same time as they are released in hard copy.

### **Measure of Success**

We will maintain statistics on numbers of people attending outreach events.