

## Section ii

### Hearing Officer Roundtable Project Introduction

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<b>Background</b>	<p>In 2001 and 2002, nine Administrative Hearing Investigative Issues Roundtable “discussions” were held through out the State. Each California Agricultural Commissioners and Sealers Association area group held two Roundtables at different locations within their area group with the exception of the Northern area group, which held one Roundtable.</p>
<b>Purpose</b>	<p>The initial purpose of the Roundtable discussions was to discuss issues related to the County Agricultural Commissioners implementation of the Agricultural Civil Penalty Program authorized by Food and Agricultural Code section 12999.5 and of the Structural Civil Penalty Program authorized by Business and Professions Code section 8617.</p> <p>A second, although indirectly-related, purpose was to discuss investigation issues and specific code section strategies related to the previously mentioned administrative penalty programs. The investigation and specific code section issues were not part of the original scope of the project, and were actually planned for a second part of the project, but the team was able to complete both items, primarily because of the support and interest of the Executive and Enforcement Branch sponsors.</p>
<b>Issues</b>	<p>Various issues pertaining to administrative hearings and investigations were discussed at each Roundtable. In addition, other suggestions and comments were submitted by the Roundtable facilitator, Gerald A. Benincasa, retired Tuolumne County Agricultural Commissioner, in addition to suggestions from DPR staff and county personnel who did not participate in the Roundtable discussions.</p>
<b>Attendance</b>	<p>Each session averaged 20 participants. Some Roundtables included large numbers of highly experienced pesticide use enforcement personnel, while others had less experienced personnel in attendance. A majority of personnel had previously acted as an Advocate on behalf of their county, or as a Hearing Officer on behalf of their county or another county. Some participants at the Roundtable discussions seemed to be unfamiliar with pesticide use enforcement activities -- we presume they were from other programs that may utilize an administrative civil penalty process.</p>

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## Hearing Officer Roundtable Project Introduction, Continued

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### **Project objectives**

Project objectives were to research, analyze, and develop responses pertinent to those hearing or investigation issues raised during the Roundtable discussions and to provide responses and guidance to be incorporated into the future Hearing Sourcebook revision.

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### **Benefits and Outcomes**

- New procedures for performing administrative civil penalty hearings were developed.
  - Clearer policy statements emerged and two of DPR's long-held policies were reversed (homeowners and concurrent hearings).
  - All documents containing legal theory or application were examined, poked, prodded, and approved by the two senior attorneys in DPR's Office of Legal Affairs (with over 50 years of law practice between them).
  - It was another opportunity to build on staff understanding about how due process concepts relate to their daily activities.
  - The Information Mapping® formatted documents can easily be incorporated into the future Hearing Sourcebook revision.
  - The Information Mapped documents are “modular” and can be used by CAC staff if they desire to develop their own training programs.
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### **Approach**

Each question was analyzed and classified. When appropriate, questions were combined because of similar subject matter and/or processes.

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### **Response development**

- We performed research using known and reliable resources.
  - We initiated consultations with Office of Legal Affairs staff, whenever necessary.
  - Whenever possible, we used terminology from the existing Hearing Officer Sourcebook, 2002 version of the Enforcement Guidelines, Appeals to the Director (in Enforcement [ENF] letters beginning in 1997), or current laws and regulations. We also consulted Merriam-Webster's Collegiate® Dictionary, Tenth Edition, before defining new terms. The Glossary is a summation of the terminology we used for this project -- it is intended to be consistent with other terms used in the pesticide regulatory program.
  - Whenever possible, we attempted to utilize the Appeals to the Director or ENF letters after 1997 (post-Federal Worker Protection Standard implementation) when providing specific advice about application of code sections.
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## Hearing Officer Roundtable Project Introduction, Continued

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### Contributors

#### Project Sponsors

- Nancy Grussing, Agriculture Program Supervisor II, Enforcement Branch
- Polly Frenkel, Acting Chief Counsel, Department of Pesticide Regulation
  - Previous Executive Sponsor: Sharon Dobbins, Chief Counsel, retired
  - Previous Branch Sponsor: Scott Paulsen, former Chief, Enforcement Branch

#### Project Team

- Mona Montano, Program Specialist -- Project Lead
- Roy Hirose, Senior Pesticide Use Specialist -- Staff and Information Mapping® Lead
- Lisa Quagliaroli, Program Specialist -- Staff
- Polly Frenkel, Acting Chief Counsel -- Legal Consultant
- Sharon Dobbins, Chief Counsel, Retired -- Legal Consultant
- Shirley Paguerigan, Assistant Information Systems Analyst -- Staff and Web Design

#### Extended Support Team

- Erghe Poston, Office Technician, Division of Enforcement, Pest Management and Licensing
- Debra Kloss, Pesticide Use Specialist, Staff
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## Hearing Officer Roundtable Project Introduction, Continued

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### **Project dedication**

The Project Team wishes to dedicate this entire project to honor and thank Patty Kershell, for all the times she typed, retyped, and reformatted the Hearing Officer Sourcebook, dozens of other Enforcement manuals, and thousands of investigative reports. She typed a huge amount of the initial text of the future Hearing Sourcebook revision, without complaining once, despite numerous and continual software and equipment failures during the nineties. Patty was hard-working and dedicated to making sure Enforcement Branch documents always looked good. Patty passed away in December 1999. We still sincerely miss her and thought about her many times while working on this project.

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