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INDEPENDENT STATE AUDITOR'S REPORT ON
CERTAIN ACTIVITIES OF THE PESTICIDE
BUREAU WITHIN THE
DEPARTMENT OF AGRICULTURAL RESOURCES

OFFICIAL AUDIT
REPORT
MAY 20, 2004

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The Pesticide Bureau, within the Division of Regulatory and Consumer Services of the Department of Agricultural Resources, is responsible for the protection of public health and the environment by licensing and monitoring the activities of over 8,100 companies and individuals, and over 5,700 schools, day care centers, and school-age child care program facilities at which pesticides are applied or may be applied. The bureau also protects the public drinking water supply, registers chemicals used in the Commonwealth, provides guidelines for the mixing, loading, storing, and disposal of pesticides, and investigates allegations of pesticide misuse. The bureau is responsible for the administration and enforcement of Chapter 132B of the Massachusetts General Laws (the Massachusetts Pesticide Control Act), which, effective November 1, 2000, was amended by Chapter 85 of the Acts of 2000, "An Act Protecting Children and Families from Harmful Pesticides" (the Children's Protection Act). Under this Act, all schools and most day care centers and school-age child care program facilities are responsible for preparing and submitting to the bureau their Integrated Pest Management (IPM) plans that set forth definitive information on the pest problem that exists, the pesticides they propose to apply, and the applicator who will apply such pesticides. These entities are required to submit IPM plans to the bureau even if they do not contemplate using pesticides at the current time.

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1. IMPROVEMENTS NEEDED IN SUBMISSION OF REQUIRED INTEGRATED PEST MANAGEMENT PLANS

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Our review disclosed that over 71% of the 2,546 public and private schools have not complied with Chapter 85 of the Acts of 2000, which requires them to submit definitive IPM plans of pesticide use to the bureau. We also found that 90% of the 3,242 day care centers and school-age child care program facilities that are required to submit these plans have not done so. Combined, over 81% of these facilities have not complied with these requirements. As a result, there is inadequate assurance that only authorized pesticides are being applied, that the application of pesticides is performed only by licensed and knowledgeable applicators, that children and staff are being protected during and after the application, and that parents and the general public have been notified in advance of the use of pesticides as required by the law.

2. THE BUREAU'S ON-SITE INSPECTION PROCEDURES DO NOT ENSURE THAT PESTICIDE DEALERS AND APPLICATORS ARE PROPERLY CONTROLLING AND ACCOUNTING FOR THE PURCHASE, SALE, OR APPLICATION OF RESTRICTED-USE PESTICIDES

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In addition, the bureau's on-site inspection procedures for pesticide dealers and applicators do not include a review of documents supporting the purchase and sale of restricted-use pesticides and do not include any verification that the quantities on hand are reconcilable with the quantities purchased and sold. Without such reviews, there is inadequate assurance that pesticide dealers and applicators are properly controlling and accounting for restricted-use pesticides.

INTRODUCTION

Background

The Pesticide Bureau, within the Division of Regulatory and Consumer Services of the Department of Agricultural Resources, is responsible for the protection of public health and the environment by licensing and monitoring the activities of over 8,100 companies and individuals and over 5,700 schools, day care centers, and school-age child care program facilities at which pesticides are applied or may be applied. The bureau also protects the public drinking water supply, registers chemicals used in the Commonwealth, and provides guidelines for the mixing, loading, storing and disposal of pesticides. Additionally, the bureau investigates allegations of pesticide misuse. The bureau is responsible for the administration and enforcement of Chapter 132B of the Massachusetts General Laws (the Massachusetts Pesticide Control Act). Effective November 1, 2000, Chapter 132B was amended by Chapter 85 of the Acts of 2000, “An Act Protecting Children and Families from Harmful Pesticides” (the Children’s Protection Act). Under this Act, all schools and most day care centers and school-age child care program facilities are responsible for preparing and submitting to the bureau their Integrated Pest Management (IPM) plans, which set forth definitive information on the pest problem that exists, the pesticides being proposed for application, and the applicator who will apply such pesticides. These entities are required to submit IPM plans to the bureau even if they entity do not contemplate using pesticides at the current time.

The bureau has a staff of 12 employees and one contract person. The staff includes four persons who are responsible for field inspections of approximately 140 dealers and over 8,000 licensed applicators. The bureau also acts as a support staff for the Pesticide Board, which was established under the provisions of Section 3 of Chapter 132B and has a responsibility to advise the Commissioner of the Department of Agricultural Resources (DAR) with respect to the implementation and administration of Chapter 132B. The board includes 13 persons, including the Commissioner of the DAR, five other Commissioners or Directors (or their designees) of other large departments, and seven other persons appointed by the Governor. A subcommittee of the board, consisting of four board members and one person appointed by the Governor, was established under Section 3A of Chapter 132B. This subcommittee is responsible for registering all pesticides (i.e., classifying them based on the potential harm to the environment or general public).

Audit Scope, Objectives, and Methodology

The scope of our audit was to examine and review the various administrative and operational activities of the bureau and to determine whether the bureau was effectively and efficiently administering and enforcing pesticide laws and regulations.

Our audit was conducted in accordance with applicable generally accepted government auditing standards for performance audits issued by the Comptroller of the United States and included such audit procedures and tests considered necessary to meet these standards.

Our audit objectives were to determine whether:

- The bureau is administering and enforcing state and federal pesticide laws and regulations.
- The bureau has established and has implemented procedures to monitor the activities of companies, public agencies, and individuals who sell or apply pesticides to ensure these entities comply with the law and other requirements set forth by the bureau.
- The bureau is enforcing the Children’s Protection Act.
- The field inspections of pesticide dealers and applicators provides adequate assurance that these entities have established and utilize control systems to ensure that pesticide purchases, sales, and applications are properly accounted for.
- The bureau responds appropriately to allegations of pesticide misuse.
- The licensing process for applicators and dealers conforms to state laws and education requirements are met.

In order to achieve our objectives, we reviewed the laws, rules, and regulations that govern the bureau and the system of controls established by the bureau to administer and enforce state and federal pesticide laws. We obtained and reviewed the bureau’s organizational chart and policy and procedures manual and various publicly issued directives to dealers and applicators. We interviewed and held discussions with departmental officials, including the Director of Regulatory Services, the Operations Coordinator, the Chief Inspector, and others as deemed necessary to complete our objectives. We obtained and reviewed selected IPM plans and reviewed the system to examine and correct IPM plans found to be in error. We also reviewed 50 letters sent to schools, day care centers, and school-age child care program facilities after field inspections of those facilities disclosed one or more pesticide problems. These letters identified corrective actions to be taken.

We reviewed the system established to respond to allegations of pesticide misuse and reviewed 46 letters sent to applicators and to various commercial entities informing them that pesticides were improperly applied and advising them of the corrective actions required to be taken. We reviewed the licensing process of applicators and dealers and the control process used by the bureau to ensure that dealers and applicators have conformed to the continuing education requirements and tested the revenues received. We also reviewed the processes used by the bureau to ensure that schools, day care centers, and school-age child care program facilities are conforming to the requirements of the Children's Protection Act. We reviewed the process used by the subcommittee to register pesticides. We also observed a field inspection of a pesticide dealer and a pesticide applicator and reviewed the procedures used to ensure the appropriate application of pesticides and the procedures used to ensure that dealers and applicators have fully accounted for the purchase, sale, use, and inventories of restricted-use pesticides. Additionally, we reviewed the Rights of Way Management Program to determine whether IPM techniques have been established to minimize the risk of unreasonable adverse effects on human health and on the environment with herbicides used to maintain rights of way (i.e., areas adjacent to highways, canals, railroads, and power lines.) We also reviewed the rules, regulations, and procedures that provide controls for the bureau's Groundwater Protection Program.

With the exception of the two issues cited in the Audit Results section of this report, our review of the other functions performed by the bureau disclosed that the bureau is satisfactorily performing its duties and has issued a large number of informative bulletins and multipage guidelines to provide guidance to various entities and the general public as to the proper and safe application and storage of a wide variety of pesticides.

AUDIT RESULTS

1. IMPROVEMENTS NEEDED IN SUBMISSION OF REQUIRED INTEGRATED PEST MANAGEMENT PLANS

Our review disclosed that over 71% of the 2,546 public and private schools have not complied with requirements of Chapter 85 of the Acts of 2000, which requires them to submit definitive IPM plans of pesticide use to the bureau. We also found that 90% of the 3,242 day care centers and school-age child care program facilities that are required to submit these plans have not done so. Combined, over 81% of these facilities have not complied with these requirements. As a result, there is inadequate assurance that only authorized pesticides are being applied, that the application of pesticides is performed only by licensed and knowledgeable applicators, that children and staff are being protected during and after the application, and that parents and the general public have been notified in advance of the use of pesticides as required by the law.

As stated in the Background section of this report, all schools and most day care centers and facilities that operate school-age child care programs are required to conform to the provisions of Chapter 85 of the Acts of 2000, the Children's Protection Act, whose principal objective is to strengthen controls over the application of pesticides at all three types of facilities. The Act requires that each facility prepare and submit to the bureau a written plan that identifies the existing pest problem, the pesticides being proposed for application, and the applicator who will apply the pesticide. The written plan is known as an Integrated Pest Management (IPM) plan, which must be submitted for indoor and outdoor applications.

This legislation was introduced by the Department of Food and Agriculture, the former name of the Department of Agricultural Resources. Various persons appeared before the Joint Committee on Natural Resources in support of this legislation, including the former Commissioner of the Department of Food and Agriculture, who testified:

The purpose of this legislation is to prevent unnecessary exposure of children to chemical pesticides – and to ensure that clear and accurate notification concerning the use of pesticides in schools, day care centers and school age child care programs be made available to parents and employees, so that measures may be taken to address problems effectively while protecting children and adults. . . .

The Legislature overwhelmingly supported the Children's Protection Act, as the legislation passed the House of Representatives unanimously and was adopted by voice vote and without debate by the Senate.

Although the bureau has never issued regulations with respect to the Children's Protection Act, during the audit we were provided with a proposed draft of regulations to formalize specific requirements to enforce the various provisions of the law. Prior to the November 1, 2000 effective date of the law, the bureau did however prepare and issue several informative documents to the schools, day care centers, and school age child care program facilities. These include General Guidelines for Development of an IPM Plan, an IPM Plan Format description, and an IPM Plan Contents document. Two of these documents state "your plan will be a working document and should be updated every three months or annually at a minimum to reflect changes in IPM plans."

The Children's Protection Act is silent on the issue of updating plans, although the intent of the bureau to require the filing of a new plan at least annually is clear. However, the above cited documents, while clear in intent, are not regulations and do not carry the same enforcement strength as the Code of Massachusetts Regulations. The failure of over 81% of the facilities to adhere to these directives means they have failed to do so for three reporting dates beginning November 1, 2001, November 1, 2002, and November 1, 2003 and for the subsequent months through the conclusion of our on site audit work.

Chapter 132B, Section 2, of the Massachusetts General Laws contains the following definitions for schools, day care centers, and facilities that operate school-age child care programs:

"School," any public or private school for preschool, elementary, middle or high school students.

"Day Care Center," any public or private facility operated on a regular basis whether known as a day nursery, nursery school, kindergarten, child play school, progressive school, child development center or preschool, or known under any other name, which receives children not of common parentage who are not more than six years of age, or who are not more than 21 years of age if such children have special needs, for nonresidential custody and care during part or all of the day separate from their parents.

"School age child care program," any public or private program or facility operated on a regular basis which provides supervised group care for children not of common parentage who are enrolled in kindergarten and are of sufficient age to enter first grade the following year, or an older child who is not more than 14 years of age, or not more

than 21 years if such child has special needs. Such a program may operate before and after school and may also operate during school vacation and holidays.

We found that there are 3,242 day care centers and school-age child care program facilities that fall under the provisions of Chapter 85 of the Acts of 2000. The bureau combines these two facility categories for reporting purposes. There are also 2,546 schools. The Act requires the preparation and submission of a separate plan for indoor and outdoor areas. Our audit disclosed that 171 of the day care and school-age child care program facilities and 386 schools had filed either an indoor IPM plan or an outdoor IPM plan, but not both. Chapter 132B, Section 6E, of the General Laws states, in part:

(a) On or before November 1, 2001, each school, day care center and school age child care program in the commonwealth shall adopt and implement, in accordance with any regulations promulgated by the department pursuant to this chapter, an integrated pest management plan. The plan shall cover both indoor and outdoor areas.

The following is a summary of the schools, day care and school-age child care facilities that under the law are required to file these plans, the number that have fully complied, and the number that have failed to fully comply or have made no attempt to comply with Section 6E.

	Number of Facilities	Complete Response Received		No or Incomplete Response Received	
		Number	Percent	Number	Percent
Day Care and School-Age Child Care Programs	3,242	323	10.0%	2,919	90.0%
Schools	<u>2,546</u>	<u>734</u>	28.8%	<u>1,812</u>	71.2%
	<u>5,788</u>	<u>1,057</u>	18.3%	<u>4,731</u>	81.7%

In addition to the IPM plan requirements, the Children's Protection Act also sets forth certain other prohibitions and considerations, including the following:

Section 6C. (a) Pesticides shall not be sprayed, released, deposited or applied indoors while children are on the property of a school, day care center or school age child care program, except for those pesticides listed in section 6F.

(b) Pesticides shall not be sprayed, released, deposited or applied on the outdoor property of a school, day care center or school age child care program while children are located in, on, or adjacent to the area of the pesticide application.

(c) (1) Whenever pesticides are to be sprayed, released, deposited or applied outdoors at a school, day care center or school age child care program, the school administration, day care

center operator or school age child care program operator shall ensure that employees, pupils or supervised children and their parents or guardians receive standard written notification, as defined in section 2, at least two working days before pesticides are sprayed, released, deposited or applied, provided that such spraying, release, deposit or application of pesticides shall not commence prior to the approximate dates set forth on the standard written notification, and shall not conclude more than 72 hours after such approximate dates.

(2) Such notification policy shall apply at all times except during periods when classes are not scheduled for at least five consecutive days after the spraying, release, deposit or application or when day care or school age child care facilities are not scheduled to be open for at least five consecutive days after the spraying, release, deposit or application.

(3) Information to be included in the standard written notification shall be provided to the school administration, day care center operator, or school age child care program operator by the certified commercial applicator, certified private applicator, or licensed applicator, or the contractor, employers or employees responsible for carrying out the pesticide spraying, release, deposit or application.

Section 6D. Each school administration, day care center operator, or school age child care program operator shall ensure that standard written notification is posted in a common area of its facility at least two working days before the outdoor spraying, release, deposit or application of a pesticide and for at least 72 hours following the spraying, release, deposit or application. Treated areas will be posted with clear and conspicuous warning signs along the perimeter in accordance with regulations to be promulgated by the department governing indoor and outdoor spraying, release, deposit or application of pesticides at schools, daycare centers and school age child care programs.

Section 6E (b) No person shall spray, release, deposit or apply or supervise the spraying, release, deposit or application of any pesticide in, on or around structures or grounds of a school, day care center or school age child care program unless that person is a certified commercial applicator, certified private applicator, licensed applicator, or is under the supervision of a certified commercial applicator, certified private applicator or licensed applicator.

In addition, Section 6F of Chapter 85 identifies the pesticide products that may be used indoors at these facilities, Section 6G identifies the pesticide products that may be used outdoors, and Section 6I requires that a written or electronic record of all chemical pesticide spraying, release, deposit or application made at any of these facilities be maintained on site for a period of not less than five years and be made available to the public upon request.

We found that the bureau has hired under a contract one person who has primary responsibility over the IPM program. This person performs a review of each IPM plan received to ensure that it is complete, that only authorized pesticides are planned to be used, and that the applicator is licensed. Should any problems be discovered in the submitted IPM plans, the facility operator is contacted for corrections. The contract person then electronically records the receipt of the plan and files it. We found that, beyond the initial review by the bureau's contract person, the IPM plans are not used for any purpose. We also found that the bureau does not have a system

in place for contacting the administrators of the schools, day care centers, and school-age facilities that do not fully comply with the requirement that two IPM plans be submitted to the bureau. The bureau indicated that it believes that the Department of Education (DOE), which has responsibility over schools, and the Office of Child Care Services (OCCS), which has responsibility over the other two facilities, also do not perform this function.

During a meeting with two bureau field inspectors, we were informed that both prior to and shortly after the passage of the Children's Protection Act, DOE and OCCS employees informed officers at all 5,788 facilities that a three-hour workshop on the purpose and requirements of the Act was planned to be held on various dates at various locations throughout the state. The instructors at the workshop were field inspectors from the bureau and educators from the staff at UMass Amherst, and a total of 24 workshops were held during the period February 20 to June 24, 2001. We were also provided information that demonstrates the bureau made additional efforts to educate the 5,788 facilities as to the importance of children's protection, including:

- Press releases
- Newsletter articles
- Presentations for organizations such as the Massachusetts Health Officers' Association and the Massachusetts Association of Health Boards
- An extensive Web site page on the law

The bureau also issued a letter dated August 8, 2001 to each of the 5,788 facilities informing them of the requirement to file two IPM plans.

Nevertheless, it is evident that the bureau has inadequate assurance that facilities that have not filed IPM plans or have filed only one of the two required plans have developed and implemented a pesticide application program that ensures that children, staff, and the general public are not being exposed to unauthorized pesticides and improper application processes that may be detrimental to their health.

It is also evident that a staff of four field inspectors is not adequate to monitor and enforce the provisions of the Children's Protection Act. The bureau's Director of the Division of Regulatory Services indicated that after the Act was passed, the appropriated funds for the

department were reduced for fiscal years 2002, 2003, and 2004 by 11.2%, 30%, and 35.4%, respectively. He also stated that in 1987, the field inspection staff consisted of 10 inspectors and since then, the staff has been reduced to the current level of four inspectors, although in the intervening period the bureau has been assigned four additional programs: the Rights of Way Management, Indoor Pesticide Regulations, Lawn Care Regulations, and Children's Protection Act programs.

Regarding violations of the Children's Protection Act, Section 14 of Chapter 132B provides for a penalty of up to \$1,000 or imprisonment for up to six months and both a fine and imprisonment for a second offense. Further, each day of a violation constitutes a second offense. Specifically, this section states:

Any person who violates any provision of section 6A to 6I, inclusive, or section 7A or who violates any regulation adopted under the provisions of this chapter, (a) shall be punished by a fine of not more than one thousand dollars, or imprisonment for not more than six months, or both such fine and imprisonment, for the second and each subsequent offense knowingly committed, or (b) shall be subject to a civil penalty not to exceed ten thousand dollars for any offense, which may be assessed in an action brought on behalf of the commonwealth in any court of competent jurisdiction. Each day of a violation shall constitute a separate offense.

We found that since the effective date of the Children's Protection Act, only nine fines have been issued due to various improprieties. Six were issued to schools and three to applicators. These fines were issued during the period of April 25, 2003 to December 10, 2003 and ranged from \$200 to \$1,000.

In enacting the Children's Protection Act, the Legislature as part of the Act stated:

Section 1. (a) the general court finds that:

(1) the people of the commonwealth have a fundamental right to know about the use of pesticides;

(2) pesticides contain toxic substances, many of which may have a detrimental effect on human health and the environment and, in particular, have developmental effects on children;

(3) citizens of the commonwealth are being denied their right to know and their ability to make informed decisions about the level of pesticide exposure to them and their children; and

(4) information compiled regarding pesticide use in the commonwealth is not maintained in a manner which is useful to the public. . . .

Section 1 (b) The policy goals of this act are to:

(1) prevent unnecessary exposure of children to chemical pesticides;

(2) promote safer alternatives to pesticides;

(3) ensure that clear and accurate notification concerning the use of pesticides in schools, day care centers and school age child care programs be made available so that measures may be taken to prevent and address pest problems effectively without endangering children or adults;

(4) promote the use of integrated pest management techniques to reduce the need for reliance on chemical pesticides; and

(5) develop a comprehensive, reliable and cost-effective system for collecting and organizing information on all categories of pesticide use in the commonwealth for , , , ,

It is evident that the concerns and policy goals of the Legislature are not being met.

Recommendation

The department should:

- Conduct a workload study of the Pesticide Bureau to determine the appropriate staffing levels to achieve the policy goals of the Legislature with respect to the Children's Protection Act and take whatever actions are necessary to meet staffing needs.
- Discuss the issue of noncompliance on the part of these facilities with officials of the DOE and OCCS and obtain their assistance in contacting the entities and instructing them to prepare and submit the required IPM plans to the bureau. This coordinated effort should be conducted on a continuing basis to account for the opening of new facilities and the closure of old ones.
- Inform all noncomplying entities of the penalties that may be imposed and impose these penalties for entities that do not comply.
- Ensure that each IPM plan covers a specified period, at the conclusion of which an updated (as necessary) plan or a statement affirming "No Change" must be submitted.
- Ensure that all significant changes to an IPM plan be documented in writing and sent to the bureau.
- Ensure that the blank IPM form to be completed by each entity reflects the types of pesticides that can be used for both indoor and outdoor applications as required by Chapter 132B, Sections F and G, of the General Laws. The entities could then check off on the forms the pesticides they plan to use.
- Conduct field inspections of the pesticide applications process at selected schools, day care centers, and facilities that operate school-age child care programs.

Auditee's Response

In response to this issue, the Commissioner of the Department of Agricultural Resources stated, in part:

I wholeheartedly agree with the recommendation to conduct a workload study to determine the appropriate staffing levels to achieve the policy goals of the Legislature with respect to the Children's Protection Act as well as the performance of more detailed and frequent pesticide dealer inspections.

2. THE BUREAU'S ON-SITE INSPECTION PROCEDURES DO NOT ENSURE THAT PESTICIDE DEALERS AND APPLICATORS ARE PROPERLY CONTROLLING AND ACCOUNTING FOR THE PURCHASE, SALE, OR APPLICATION OF RESTRICTED-USE PESTICIDES

During our observation of an on-site inspection of a dealer by a bureau pesticide inspector, we noted that the inspection process does not include a review of documents supporting the purchase and sale of restricted-use pesticides and does not include any verification that the quantities on hand are reconcilable with the quantities purchased and sold. Although we did not visit an applicator's office/pesticide storage area, we were informed that visits to applicator's premises, when made, similarly do not include a review of documents supporting quantities of restricted-use pesticides purchased, used, and on hand.

Restricted-use pesticides are defined by 333 Code of Massachusetts Regulations (CMR) 8.04 as a pesticide that "may cause, without additional restriction, unreasonable adverse effects on the environment, including injury to the applicator" when used. The restricted-use classification of a pesticide, which is made by the Pesticide Board Subcommittee, includes those pesticides that are classified as restricted by the United States Environmental Protection Agency. The Director informed us that restricted-use pesticides present a particularly higher hazard or risk to elements of the environment or human health than general use pesticides. Because of this, the bureau requires that restricted use pesticides be stored in an area separate from other products and this requirement is verified during on-site inspections of dealers and applicators.

We noted that 333 CMR 9.08 and 10.14 set forth record-keeping requirements for dealers and for applicators, respectively. Section 9.08 requires that dealers must maintain records of purchases and sales of restricted-use pesticides, and Section 10.14 requires that applicators must maintain complete records of each use of a pesticide. These sections also state that records must

be maintained for “a period of five years” for dealers and “a period of at least three years” for applicators and that these records must be “made promptly available to the appropriate Department officials upon a reasonable demand.”

We also noted that 333 CMR 9.08 and 10.14 require the submission of annual reports to the bureau. The dealer’s reports cover the purchase of restricted-use pesticides and their sale to identified applicators, and applicator’s reports cover the use of restricted-use pesticides. When received, these reports are filed at the bureau but not referred to during inspectional visits to dealers and applicators.

Because the bureau does not review dealers’ records supporting the purchases, sales, and quantities on hand of restricted-use pesticides, it has inadequate assurance that the information submitted in the dealers’ annual reports to the bureau is correct. Even more significantly, the bureau has inadequate assurance that the dealers are purchasing and selling pesticides of an appropriate and permitted designation; that purchases are being made from legitimate, recognized manufacturers; that sales are being made only to licensed applicators; and that quantities on hand on the day of a bureau field inspection reasonably agree with quantities on hand at the start of a period after factoring in the quantities purchased and sold.

Similarly, because the bureau does not review documents supporting applicators’ purchase and use of restricted-use pesticides and their quantities on hand, it has inadequate assurance that all purchases are from licensed dealers; that usage records reflect the appropriate quantities and types of pesticides applied; that only licensed applicators or persons under their direct supervision performed the application; and that the actual quantities on hand during a bureau field inspection reasonably agree with the quantities on hand at the start of a period after factoring in the quantities purchased and used.

The inadequate review of dealers’ and applicators’ records has resulted in a situation whereby individual dealers and applicators are aware that their activities and transactions are subject to only limited controls. As a result, an unscrupulous dealer or applicator could purchase large quantities of restricted-use pesticides, not report such purchases, and sell them to unauthorized persons (e.g., unlicensed applicators) or use them for purposes in violation of the law.

As mentioned in Audit Result No.1, the bureau has a staff of only four inspectors to cover the entire state, and to conduct inspections of over 140 dealers and over 8,000 applicators, as well as the 5,788 schools, day care centers and school-age child care program facilities.

Recommendation

The department should:

- Expand the on-site inspection of dealers and applicators to include a review of the control systems in place and a test of the records supporting the purchase, sales, use, and quantities on hand of restricted-use pesticides.
- Use the annual reports submitted by dealers and applicators as part of the inspection test process.
- Conduct a workload study to determine the appropriate staffing levels for performing more detailed and more frequent field inspections and take whatever actions are necessary to meet staffing needs.

Auditee's Response

In response to this issue, the Commissioner of the Department of Agricultural Resources stated, in part:

The... audit still overlooks the Bureau's main point of concern that involves the sale of restricted use pesticides in Massachusetts. RUP dealers who are located out of the state and Internet pesticide sales are the two areas where the Bureau has little or no ability to inspect, audit or review site or sales records or to penalize violations. Promulgation of new regulations, as well as additional resources and staff, would be required to address this significant problem. I would hope the final audit might include this issue in its recommendations.

Auditor's Reply

Although out-of-state restricted-use pesticide dealers and Internet pesticide sales were not within the scope of our review, we agree that consideration should be given to granting the bureau the authority to regulate such activities if they pose a threat.