



ufacturers and distributors from representing that their consumer goods are "ozone friendly," "biodegradable," "photodegradable," "recyclable," or "recycled" unless the products meet the statutory definitions of those terms.

In 1990, the legislature passed the Environmental Advertising Claims Act, which added section 17508.5 [10:4 CRLR 148]; the passage of the Act was prompted by the increasing use of environmental product advertising with no clear common meaning to the terms advertisers used and the resulting confusion among consumers. In February 1992, the Association of National Advertisers filed an action against Attorney General Dan Lungren, and sought a declaration that the statute impermissibly restricts commercial and noncommercial speech and is unconstitutionally vague. The trial court found that the statute restricts commercial speech only, is adequately tailored to directly advance substantial state interests in protecting consumers and the environment, and is therefore allowable under the first amendment. However, the trial court found that the statute's definition of the term "recyclable" was unconstitutionally vague and therefore unenforceable. In affirming the district court's holding, the Ninth Circuit found that the statute sets forth objective and consistently applied standards that allow consumers to rely on ecological claims made about products.

## ■ FUTURE MEETINGS

January 25 in Sacramento.  
February 22-23 in Palm Springs.  
March 29 in Sacramento.  
April 26-27 in San Diego.  
May 24-25 in Bakersfield.  
June 28 in Sacramento.  
July 26-27 in Ventura County.  
August 23 in Sacramento.  
September 27-28 in Susanville.  
October 25-26 in Napa.  
November 15 in Sacramento.  
December 13 in Sacramento.

## DEPARTMENT OF PESTICIDE REGULATION

Director: James Wells  
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The California Department of Food and Agriculture's Division of Pest Management officially became the Department of Pesticide Regulation (DPR) within the California Environmental Protection Agency (Cal-EPA) on July 17,

1991. DPR's enabling statute appears at Food and Agricultural Code (FAC) section 11401 *et seq.*; its regulations are codified in Titles 3 and 26 of the California Code of Regulations (CCR).

With the creation of Cal-EPA, all jurisdiction over pesticide regulation and registration was removed from CDFA and transferred to DPR. Pest eradication activities (including aerial malathion spraying, quarantines, and other methods of eliminating and/or preventing pest infestations) remain with CDFA. The important statutes which DPR is now responsible for implementing and administering include the Birth Defect Prevention Act (FAC section 13121 *et seq.*), the Pesticide Contamination Prevention Act (section 13141 *et seq.*), and laws relating to pesticide residue monitoring (section 12501 *et seq.*), registration of economic poisons (section 12811 *et seq.*), assessments against pesticide registrants (section 12841 *et seq.*), pesticide labeling (section 12851 *et seq.*), worker safety (section 12980 *et seq.*), restricted materials (section 14001 *et seq.*), and qualified pesticide applicator certificates (section 14151 *et seq.*).

DPR includes the following branches:

1. The Pesticide Registration Branch is responsible for product registration and coordination of the required evaluation process among other DPR branches and state agencies.

2. The Medical Toxicology Branch reviews toxicology studies and prepares risk assessments. Data are reviewed for chronic and acute health effects for new active ingredients, label amendments on currently registered products which include major new uses, and for reevaluation of currently registered active ingredients. The results of these reviews, as well as exposure information from other DPR branches, are used in the conduct of health risk characterizations.

3. The Worker Health and Safety Branch evaluates potential workplace hazards resulting from pesticides. It is responsible for evaluating exposure studies on active and inert ingredients in pesticide products and on application methodologies. It also evaluates and recommends measures designed to provide a safer environment for workers who handle or are exposed to pesticides.

4. The Environmental Monitoring and Pest Management Branch monitors the environmental fate of pesticides, and identifies, analyzes, and recommends chemical, cultural, and biological alternatives for managing pests.

5. The Pesticide Use and Enforcement Branch enforces state and federal laws and regulations pertaining to the proper and

safe use of pesticides. It oversees the licensing and certification of dealers and pest control operators and applicators. It is responsible for conducting pesticide incident investigations, administering the state pesticide residue monitoring program, monitoring pesticide product quality, and coordinating pesticide use reporting.

6. The Information Services Branch provides support services to DPR's programs, including overall coordination, evaluation, and implementation of data processing needs and activities.

Also included in DPR are the Pesticide Registration and Evaluation Committee (PREC), the Pesticide Advisory Committee (PAC), and the Pest Management Advisory Committee (PMAC). PREC meets monthly, bringing together representatives from all public agencies with an interest in pesticide regulation to consult on pesticide product registration, renewal, and reevaluation issues. PAC meets bimonthly, bringing together representatives from public agencies with an interest in pesticide regulation to discuss all policy issues regarding pesticides. PMAC, established in conjunction with CDFA, also meets bimonthly, and seeks to develop alternative crop protection strategies enabling growers to abandon traditional, chemical-dependent systems and reduce the potential environmental burden associated with pesticide use.

## ■ MAJOR PROJECTS

**Clean Air Act Activities.** The federal Clean Air Act requires each state to develop a state implementation plan (SIP) for attaining and maintaining air quality standards for air pollutants such as ozone. The state Air Resources Board (ARB) has identified pesticide application as a source of volatile organic compounds (VOC) in many California air basins; VOCs are precursors to tropospheric ozone formation which is harmful to both human health and vegetation. Because the state of California failed to develop an acceptable SIP for six major air basins, a federal court ordered the U.S. Environmental Protection Agency (EPA) to prepare and impose on California a federal implementation plan (FIP). [14:4 CRLR 155-56] As a result, on November 15, ARB approved and submitted to the U.S. Environmental Protection Agency (EPA) a plan which ARB contends is designed to meet federal ozone standards as required by the Act; if approved by the EPA, ARB's plan will preclude imposition of the FIP (see agency report on ARB for related discussion).

For its part in this process, DPR drafted a plan for reducing agricultural and com-



mercial structural pesticide sources of VOCs. [14:4 CRLR 156; 14:2&3 CRLR 172] As drafted, DPR's plan is designed to reduce VOC emissions from agricultural and commercial structural pesticide applications by 20% from the 1990 baseline emission inventory by 2005. The plan includes developing VOC content data for each formulated pesticide, establishing target VOC reduction levels and dates, and identifying voluntary and mandatory measures to reduce VOCs. During September and October, DPR conducted workshops to receive input on its plan; the Department is expected to take further action with regard to the plan in the future.

**DPR Releases 1992 Pesticide Residues Report.** In December, DPR released a report entitled *Residues in Fresh Produce—1992*; the report was released as part of DPR's residue testing program, which seeks to ensure that all food complies with specified safety standards. DPR's residue testing program consists of two elements: the marketplace surveillance program and the priority pesticide program. As part of the marketplace surveillance program, DPR took 7,319 samples through the various channels of trade in 1992; all samples were tested with multiresidue screens capable of detecting more than 200 pesticides and breakdown products. According to DPR, no residues were detected in about 69% of the samples; residues at less than 50% of the tolerance level were detected in 29.3% of the samples; residues at 50–100% of the tolerance were detected in 0.87% of the samples; and illegal residues were found in 0.93% of the samples. Of the illegal residues detected, 0.23% had residues that were over the tolerance level, and 0.70% had residues of a pesticide not authorized for use on the commodity. The 1992 figures generally represent increased pesticide residue levels over DPR's 1991 figures. [13:4 CRLR 158]

In its priority pesticide program, DPR's monitoring is concentrated on pesticides of special health interest; samples are taken only of crops that are known to have been treated with a targeted pesticide. Because the crop is known to have been treated, DPR obtains accurate residue data on which to base estimates of dietary exposure. The pesticides and commodities to be targeted are selected in a cooperative effort by DPR's Medical Toxicology and Pesticide Enforcement branches; the focus is on pesticides of known toxicological concern, although other factors are considered. In 1992, DPR completed analyses on 4,776 samples in the priority pesticide program; residues were found in 18% of the samples, and six of the 4,776 samples contained illegal residues.

**DPR Releases Annual Pesticide Illness Report.** On December 14, DPR released reports entitled *Pesticide Illness Surveillance Program Summary Report—1992* and *Guide to the California Pesticide Illness Surveillance Program—1992*; DPR's pesticide illness surveillance program is one part of the state's worker safety program. California law requires physicians to report any suspected case of pesticide-related illness or injury by telephone to the local health department; the health department then informs the county agricultural commissioner, and also completes a Pesticide Illness Report, copies of which are distributed to Cal-EPA's Office of Environmental Health Hazard Assessment, the Department of Industrial Relations (DIR), and DPR. Because the required illness reports are not always provided, DPR's Worker Health and Safety Branch also reviews reports of worker illness and injury submitted to DIR under workers' compensation reporting requirements. Any report that mentions a pesticide, or pesticides in general, as a possible cause of injury is selected for investigation; reports that mention unspecified chemicals also are investigated if the setting is one in which pesticide use is likely.

According to the reports, DPR received 2,694 reports of suspected pesticide-related illnesses or injuries in 1992, of which 2,536 generated sufficient information for evaluation and analysis. Of the 2,536 cases, 1,856—including 714 attributed to antimicrobial exposure—were judged to have at least a possible relationship to pesticide exposure. This compares to 2,118 cases in 1988, 1,754 cases in 1989, 1,987 cases in 1990, and 1,804 (excluding those related to the metam sodium spill at Dunsuir) in 1991. [14:4 CRLR 155] Of the 1,856 cases in 1992, 542 were considered "definitely" related to pesticide exposure; 542 were "probably" related, and 772 were rated "possibly" related to pesticide exposure. Of the remaining cases, 148 were thought "unlikely" to be the result of pesticide exposure, and 532 were determined not to be the result of pesticide exposure. Of the 1,856 cases possibly, probably, or definitely related to pesticide exposure, 650 involved agricultural pesticide use, and 1,206 involved the nonagricultural use of pesticides. Also, 803 of the people suffered irritations of eyes and/or skin only; the remaining 1,053 had other or additional symptoms.

DPR noted that the most profound pesticide tragedy of 1992 occurred when a man went into a coma and died after reentering his fumigated apartment. Although the building had been declared safe for reentry by the pesticide applicator, evi-

dence suggests that excessive amounts of methyl bromide remained or reaccumulated; the pest control operator pled no contest to involuntary manslaughter and was sentenced to six months in jail.

**Enforcement of the Birth Defect Prevention Act.** As part of its mandate to enforce the Birth Defect Prevention Act of 1985, DPR recently took the following actions:

- **Data Collection Under AB 1742.** Two 1991 bills required DPR to enhance its efforts to enforce the Act: SB 550 (Petris) (Chapter 1228, Statutes of 1991) established a timeframe within which manufacturers of 200 pesticides on DPR's priority list had to submit chronic health effects studies or face suspension of the registration of their product; and AB 1742 (Hayden) (Chapter 1227, Statutes of 1991) established a timetable for the collection of similar data on another group of pesticides. In early 1992, DPR sent letters to the manufacturers of 390 active ingredients, informing them that they must begin the process of ensuring that up-to-date toxicology data are submitted pursuant to AB 1742. [13:2&3 CRLR 172] In December 1993, DPR warned those companies which had yet to comply that they must immediately commit to submitting the necessary data or risk suspension of the registration of their ingredient.

On November 16, DPR began to send out intent to suspend notices to the registrants of ten pesticide active ingredients; the notices are the result of the registrants' failure to provide DPR with current information on the potential chronic health effects of their products. The ten active ingredients are Bis Butenylene Tetrahydrofurfural; 2-Butoxyethanol; Cetyl Dimethyl Ethyl Ammonium Bromide; 4-CPA, Diethanolamine Salt; Nicotine; 4-Nitropyridine N-Oxide; Pindone; Pindone, Sodium Salt; Ryanodine Alkaloid; and Sodium Xylene Sulfonate.

- **Reevaluation of Products Containing Carbaryl.** On November 23, DPR announced completion of its reevaluation of sixty products which contain between 7.5%–50% carbaryl; the reevaluation commenced in March 1990. The basis for the reevaluation was a review of acute oral studies, which indicated that products containing 50% carbaryl were toxicity Category II for acute oral toxicity and should carry the signal word "Warning"; when the reevaluation commenced, a number of the registered products containing 50% carbaryl had the signal word "Caution" on their labels.

Pursuant to the reevaluation, the registrants of all products placed into reevaluation were required to submit acute oral toxicity data on their registered products;



## REGULATORY AGENCY ACTION

submitted data indicated that the signal word and precautionary language on several of the products were not adequate to mitigate possible acute oral toxicity hazards. Products which were determined to lack adequate precautionary language on the label have either been withdrawn from registration, or the signal word and precautionary language have been revised.

**DPR Explains Interim Registration Process.** AB 771 (Areias) (Chapter 963, Statutes of 1993) established an interim registration process whereby applicants for registration of a pesticide product or label amendment of a pesticide product may apply for a certificate of interim registration; under the interim registration process, the submission of certain data may be deferred for up to three years. [14:4 CRLR 157; 13:4 CRLR 161] However, AB 771 does not require DPR to give requests for interim registration priority in the review process; accordingly, requests for interim registration will be reviewed in the order received along with all other requests for registration. In Notice 94-7 issued in September, DPR explained the interim registration process, including who may apply for a certificate of interim registration, what types of data may be deferred, what needs to be submitted to apply for a certificate of interim registration, limitations on the certificate of interim registration, and reasons for revocation of a certificate of interim registration.

**DPR Approves Limited Use of Telone II.** On December 7, DPR announced that it has approved a limited resumption of use of Telone II, a soil fumigant containing the active ingredient 1,3-dichloropropene. In April 1990, DPR suspended permits for the use of the product after ARB monitoring stations detected unacceptable levels of the active ingredient in ambient air; 1,3-dichloropropene has been identified as a chemical known by the state to cause cancer. Following DPR's action, DowElanco, the product's manufacturer, engaged in a four-year program of research and field trials designed to develop application techniques to reduce residues in the air, and to validate a methodology that would accurately predict emissions after fumigation. Based on DowElanco's research and its own risk assessment on DowElanco's proposed uses, DPR concluded that allowing limited use of Telone II, under strictly controlled conditions, does not pose a significant risk to workers, the general public, or the environment.

Use of the product will be strictly controlled by DPR, county agricultural commissioners, and DowElanco; DPR developed a list of seven conditions which it recommends that county agricultural com-

missioners implement before issuing permits to growers to use Telone II. Among other things, the conditions limit the use of Telone II to the counties of Fresno, Imperial, Monterey, Riverside, Kern, Kings, Madera, Merced, San Joaquin, San Luis Obispo, Santa Barbara, Stanislaus, and Tulare; provide that no more than 21,250 acres may be treated with Telone II in the state in a calendar year; provide that fields may be treated only once every three years; provide that the soil to be treated will be that primarily planted with carrots, sweet potatoes, sugar beets, melons, and tree and vine crops; require buffer zones of 300 feet between the application site and an occupied structure; increase from one to seven days the interval between application and reentry into treated fields; and expand requirements for respiratory protective equipment for workers.

**DPR's IPM Efforts.** In furtherance of its efforts to promote and encourage integrated pest management (IPM) techniques, DPR announced on October 18 the seven recipients of its "IPM Innovator" awards, given to groups for their efforts in finding environmentally friendly ways to fight insects, weeds, and other pests in urban settings. DPR presented its award to the Los Angeles Unified School District, the Getty Conservation Institute, the Fremont Unified School District, the San Diego City Unified School District, PACE Turfgrass Research Institute in San Diego, the East Bay Regional Park District in Oakland, and the San Luis Obispo County Department of Agriculture. According to DPR, the recipients are all engaging in efforts to reduce the urban use of pesticides while maintaining economical and effective pest suppression.

On November 23, DPR announced its completion of a thirty-page booklet listing 120 different beneficial organisms, or "good bugs," which help fight "bad bugs" in gardens or on farms. The booklet, entitled *Suppliers of Beneficial Organisms in North America*, includes the names, addresses, phone, and fax numbers of the suppliers of beneficial organisms such as mites, nematodes, parasites, and predators. According to DPR, although using a beneficial organism to fight pests usually takes a little more knowledge than using a pesticide, the results can often be long-lasting as it establishes a system of natural checks and balances.

**DPR Releases Preliminary Draft of TAC Report.** In November, DPR released a preliminary draft, for review and comment only, of its report entitled *Pesticides for Evaluation as Candidate Toxic Air Contaminants*; DPR is statutorily mandated to evaluate pesticides, in their pesti-

cidal uses, as possible toxic air contaminants (TACs). [14:4 CRLR 156-57] Among other things, the draft document explains two procedures for identifying pesticides as TACs: (1) the DPR Director is required to list as a TAC any pesticide which has been identified as a hazardous air pollutant by the federal government (*see below*); and (2) FAC sections 14022-14023(d) outline a procedure for state identification of other pesticides as TACs. The latter procedure includes measured air concentrations, an environmental fate assessment, an exposure assessment, and a risk assessment quantifying the possible degree of risk to the public. These activities provide the basis for the DPR Director's decision to designate pesticides as TACs and their subsequent listing as such in the CCR. At this writing, DPR is reviewing comments made in response to its preliminary draft.

**Sanitizers and Disinfectants.** On October 14, DPR published notice of its intent to amend sections 6686 and 6720, Titles 3 and 26 of the CCR, to exempt chemicals used as sanitizers and disinfectants (including medical sterilants) from certain transportation, storage, and disposal regulations; the proposed changes also specify that, for purposes of handling sanitizers and disinfectants, compliance with applicable sections of Cal-OSHA regulations is equivalent to compliance with DPR's pesticide worker safety requirements for these products. DPR accepted public comment on this proposal until November 28, and thereafter approved the proposed changes. At this writing, the rulemaking file on these amendments is pending at the Office of Administrative Law (OAL).

**Clean-Up Rulemaking Package.** On December 9, DPR published notice of its intent to amend sections 6400 and 6684 and repeal sections 2452.1, 2452.5, 2455, 2458.1, 2458.6, 2458.9, 2470, 2490.2, 3138.1, 3142, 3143, 3144, 6247, 6456, 6468, 6472, 6480, and 6778, Titles 3 and 26 of the CCR. The proposed changes would remove outdated sections that pertain to chemicals which are no longer registered in California, and reorganize DPR's restricted materials list in alphabetical order while incorporating permit exemptions directly into the list. DPR also proposes to adjust the herbicide exemptions for home use to reflect current packaging and concentrations. At this writing, DPR is scheduled to receive public comment on the proposed rulemaking actions until January 23; no public hearing is scheduled.

**Protocols for Testing Pesticides on Humans.** On December 23, DPR published notice of its intent to amend sections 6000, 6177, 6183, and 6710, Titles 3



and 26 of the CCR. These proposed changes would establish procedures for DPR's review of protocols for studies which include the intentional administering of pesticide chemicals to human participants to determine effects or monitoring of human participants for pesticide exposure during work tasks. The amendments would require that protocols for such studies be submitted to and approved by DPR; establish what information must be included in the protocol that is sent to DPR for review; set forth the review process for studies submitted to DPR; provide that approval of a protocol is valid for one year—after that time period, approval of the protocol must be renewed; exempt studies which have been approved by a human subjects review board of any university or medical institution in California and studies conducted solely for research; and indicate who may order the cessation of studies in which humans are exposed for the purpose of monitoring.

DPR has attempted to clarify its human subjects regulations since 1988, when its predecessor agency—the California Department of Food and Agriculture—approved the protocol for a project in which paid college students were exposed to excessive levels of the pesticide phosalone (commercially known as Zolone). [10:1 CRLR 119] An earlier DPR regulatory proposal to stiffen its human subjects regulations was abandoned in 1992. [12:4 CRLR 184; 12:2&3 CRLR 149–50] At this writing, DPR is scheduled to receive public comment on its proposed regulatory changes until February 6; no public hearing is scheduled.

**Minimal Exposure Pesticide List.** On December 30, DPR published notice of its intent to amend sections 6000, 6790, 6791, and 6792, Titles 3 and 26 of the CCR, relating to the minimal exposure pesticide (MEP) list and conditions of use. According to DPR, current regulations require handlers of atrazine and chlorothalonil to follow basic pesticide handling precautions and to follow the safety precautions printed on the pesticide label; these safety precautions, however, do not address either chronic or reproductive hazards of the pesticides, which often occur at very low exposure levels. Among other things, DPR proposes to add atrazine and chlorothalonil to the MEP list, requiring special handling procedures. At this writing, DPR is scheduled to receive public comment on the proposed rulemaking action until February 17; no public hearing is scheduled.

**Rulemaking Update.** The following is a status update on other DPR rulemaking proposals discussed in detail in previous issues of the *Reporter*:

• **DPR Proposes New Restricted Materials.** In July 1994, DPR adopted emergency amendments to section 6400, Titles 3 and 26 of the CCR, to add metam sodium and methyl isothiocyanate (MITC) to its current list of restricted materials; on September 9, DPR published notice of its intent to adopt these changes on a permanent basis. [14:4 CRLR 156] Placing metam sodium and MITC on the restricted materials list requires users to obtain a permit from the country agricultural commissioner; this process allows the commissioner to place additional conditions on the permit precisely crafted to protect nearby sensitive areas where problems have occurred in the past, as well as similar areas where future problems could occur. Although the original public comment period ended on October 24, DPR extended the public comment period until February 28; no public hearing is scheduled. On October 31, DPR readopted the amendments on an emergency basis, which extends their effective date another 120 days.

• **DPR Proposes TAC Amendment.** In May 1994, DPR published notice of its intent to amend section 6860, Title 3 of the CCR, regarding toxic air contaminants (TACs). [14:4 CRLR 156–57] The Food and Agricultural Code requires DPR to evaluate the health effects of pesticides which are or may be emitted into ambient air and which pose a present or potential threat to public health; following this evaluation, pesticides which meet specified criteria are listed as TACs. However, FAC section 14021 also provides that pesticides which have been identified as hazardous air pollutants pursuant to 42 U.S.C. section 7412 must be identified by the DPR Director as TACs (*see above*); DPR's proposed action would list as TACs pesticides which are so identified as hazardous air pollutants. The proposed changes would also create two subdivisions in the current list of TACs found in section 6860; proposed section 6860(a) would list materials which have undergone a health effects evaluation and meet the specified criteria, and proposed section 6860(b) would contain a list of materials which are federal hazardous air pollutants and are found in pesticides registered for use in California. At this writing, the rulemaking file on these changes is pending at OAL.

• **Economic Poison Rulemaking.** On September 23, OAL approved DPR's amendments to section 6000 and adoption of new section 6145, Titles 3 and 26 of the CCR, pertaining to economic poisons. The amendments to section 6000 provide that the term "economic poison," as used in FAC section 12995, includes any sub-

stance or product that the user intends to be used for the economic poison purposes specified in FAC sections 12753 and 12758; new section 6145 defines the term "intended to be used," as used in FAC sections 12753 and 12758. [14:4 CRLR 157; 14:1 CRLR 133; 13:4 CRLR 159]

## ■ LEGISLATION

**AB 124 (Rainey).** Existing law requires each registrant of an economic poison to pay to the DPR Director an assessment on all sales by the registrant of its registered and labeled economic poisons for use in this state. As introduced January 12, this bill would require DPR to study and report to the legislature on the revenue received pursuant to that provision, setting forth separately (1) revenue received from the sale of registered agricultural economic poisons, and (2) revenue received from the sale of registered nonagricultural economic poisons. The bill would permit DPR to use any funds available to it for the preparation of the study and report. [A. *Agri*]

## ■ LITIGATION

In October, the Clinton administration signed a settlement agreement which, if approved by the U.S. District Court for the Eastern District of California, would end the federal government's five-year legal battle with environmentalists and farm workers over the interpretation and enforcement of the so-called "Delaney Clause" of the federal Food, Drug and Cosmetic Act; in *California v. EPA*, No. 89-0752, the state of California, the Natural Resources Defense Council, Public Citizen, the AFL-CIO, and others contend that the Delaney Clause prohibits EPA from setting pesticide residue tolerances for processed foods if the pesticides in question have been found to cause cancer. Under the proposed settlement agreement, EPA would take the following actions:

- Sixty days after the court approves the agreement, EPA would rule on a 1992 petition submitted by the National Food Processors Association (NFPA), which petitioned EPA to discontinue its policy that links residue tolerances for processed food with those the agency sets for raw agricultural commodities. Under EPA's current policy, if a processed food tolerance is prohibited under the Delaney Clause, the corresponding raw food tolerance is also prohibited.

- Six months after the settlement is approved, EPA would decide whether any of approximately 60 residue tolerances for processed foods involving 20 chemicals violate the Delaney Clause. For those that are determined to be violative, EPA would



issue tolerance revocation proposals; final decisions on revocations would be due eighteen months thereafter.

- Two years after court approval of the settlement, EPA would decide which of the approximately 80 raw food tolerances involving 36 chemicals associated with existing or needed processed food tolerances that may violate the Delaney Clause are subject to revocation under the coordination policy; final decisions would have to be issued five years after the agreement is approved.

- Within five years of the agreement, EPA would review any carcinogenicity and processing studies already submitted to the agency but not yet reviewed to determine if additional processed and raw food tolerances are subject to the Delaney Clause and must be revoked.

The proposed settlement agreement was submitted to the district court on December 2. On December 22, several industry groups—including the American Crop Protection Association, NFPA, the American Frozen Food Institute, the American Soybean Association, the National Cotton Council of America, and the Western Agricultural Chemicals Association—filed objections to the proposed settlement; among other things, the groups claimed that the settlement agreement would waste EPA's resources by committing the agency to take regulatory action on pesticides that pose little if any risk to the public.

At this writing, the district court has not yet announced its decision regarding the proposed settlement agreement.

## RECENT MEETINGS

At PAC's November 18 meeting, the Committee heard from Dr. William Pease regarding the series of reports on pesticides being published by the Environmental Health Policy Program of the University of California at Berkeley. Among other things, Dr. Pease explained that the Program's goal is to prevent the environmental impacts of different kinds of toxic chemical use. The Program has published impact assessment reports on farmworkers, urban pesticide uses, and the evidence of the ecological impact of pesticide use in California; the Program is currently drafting a report on groundwater contamination in California.

At PMAC's December 14 meeting, the Committee discussed various IPM methods for controlling pest problems associated with strawberry crops. Among other things, the Committee discussed IPM tools such as covering cropping for weed and soil-borne pathogen suppression; timing and growing season manipulation for disease and insect management; weed abatement; biocontrols for management of mite

problems; and companion plantings and beneficial insect habitat.

## FUTURE MEETINGS

DPR's PAC, PREC, and PMAC meet regularly to discuss issues of practice and policy with other public agencies; the committees meet at 1020 N Street in Sacramento.

## WATER RESOURCES CONTROL BOARD

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The state Water Resources Control Board (WRCB) is established in Water Code section 174 *et seq.* The Board administers the Porter-Cologne Water Quality Control Act, Water Code section 13000 *et seq.*, and Division 2 of the Water Code, with respect to the allocation of rights to surface waters. The Board, located within the California Environmental Protection Agency (Cal-EPA), consists of five full-time members appointed for four-year terms. The statutory appointment categories for the five positions ensure that the Board collectively has experience in fields which include water quality and rights, civil and sanitary engineering, agricultural irrigation, and law.

Board activity in California operates at regional and state levels. The state is divided into nine regions, each with a regional water quality control board (RWQCB or "regional board") composed of nine members appointed for four-year terms. Each regional board adopts Water Quality Control Plans (Basin Plans) for its area and performs any other function concerning the water resources of its respective region. Most regional board action is subject to State Board review or approval.

The State Board has quasi-legislative powers to adopt, amend, and repeal administrative regulations for itself and the regional boards. WRCB's regulations are codified in Divisions 3 and 4, Title 23 of the California Code of Regulations (CCR). Water quality regulatory activity also includes issuance of waste discharge orders, surveillance and monitoring of discharges and enforcement of effluent limitations. The Board and its staff of approximately 450 provide technical assistance ranging from agricultural pollution control and waste water reclamation to discharge impacts on the marine environment. Construction loans from state and federal sources are allocated for projects such as waste water treatment facilities.

WRCB also administers California's water rights laws through licensing appropriative rights and adjudicating disputed rights. The Board may exercise its investigative and enforcement powers to prevent illegal diversions, wasteful use of water, and violations of license terms.

## MAJOR PROJECTS

WRCB, EPA Promulgate Water Quality Standards to Protect Bay/Delta Region, Guarantee Supplies for Urban and Agricultural Users. In an agreement heralded by Governor Wilson, U.S. Department of the Interior Secretary Bruce Babbitt, urban and agricultural water users, and environmentalists as an end to California's water wars, federal and state officials signed on December 15 the *Principles for Agreement on Bay/Delta Standards Between the State of California and the Federal Government*, a document outlining water quality standards and user guarantees for water in the Bay/Delta region.

Since 1987, WRCB has been engaged in a marathon proceeding to adopt adequate water quality standards for the San Francisco Bay/Sacramento-San Joaquin Delta Estuary (Bay/Delta). However, Wilson halted the proceeding in April 1993 after the U.S. Fish and Wildlife Service (USFWS) listed the Delta smelt as threatened under the federal Endangered Species Act (ESA), thus requiring all government agencies and private parties to consult with USFWS before taking any action which might affect the species' survival. [13:2&3 CRLR 177] With no state or federal standards in place, environmental groups sued the U.S. Environmental Protection Agency (EPA) to compel it to draft standards for the Bay/Delta; to settle the lawsuit, EPA proposed water quality standards in December 1993 which protected declining wildlife in the Bay/Delta by increasing the amount of fresh water retained in the Delta and thus decreasing the amount available to farms and cities. [14:1 CRLR 135; 13:4 CRLR 163] Governor Wilson criticized the standards and claimed that the EPA lacked jurisdiction to promulgate them. The state and federal governments came to a truce in March 1994; WRCB agreed to develop a permanent water quality control plan for the Bay/Delta by December 15, and the EPA agreed to hold off on imposing its standards until that date to give WRCB a chance to come up with adequate standards. [14:2&3 CRLR 173-74] In June 1994, WRCB and EPA signed a framework agreement, laying the groundwork for the principles set forth in December. [14:4 CRLR 159]