



LITIGATION

On January 30, the Natural Resources Defense Council (NRDC) filed a petition for writ of mandate and complaint for declaratory relief against CIWMB in *Natural Resources Defense Council v. California Integrated Waste Management Board*, No. 95CS00229 (Sacramento County Superior Court). The petition alleges that CIWMB has failed to perform various mandatory duties under the California Integrated Waste Management Act (the Act), and that the policy adopted by the Board at its January 1995 meeting relating to alternative daily cover (ADC) violates the Act, as well as the California Administrative Procedure Act (APA), the California Environmental Quality Act (CEQA), and several other statutes (see MAJOR PROJECTS). [15:2&3 CRLR 143-44] In March 1995, NRDC filed a second suit alleging additional CEQA violations by CIWMB.

The two suits were consolidated in late summer, and on December 15 a hearing on NRDC's petition was held in Sacramento County Superior Court. At the hearing, four central issues were presented to the court: (1) whether CIWMB's policy of permitting appeals of indefinite duration for solid waste disposal facilities in violation of state minimum solid waste disposal standards is in violation of specific statutory timelines; (2) whether CIWMB's policy permitting appeals of indefinite duration violates the APA; (3) whether CIWMB's policy and regulation granting diversion credit for landfilled green waste under AB 939 is inconsistent with the statute, which specifically requires green waste be "diverted" in order to receive diversion credit; and (4) whether CIWMB violated CEQA by failing to prepare an environmental impact report (EIR) prior to adopting its ADC policy and regulations.

With regard to the first issue, NRDC alleged that CIWMB has failed to properly maintain an "inventory of solid waste facilities which violate state minimum solid waste disposal standards" as required under PRC section 44104, which directs CIWMB to "inventory," or publicly list and publish, each solid waste facility in violation of the minimum standards if the facility fails to meet the minimum standards within 90 days of notification of noncompliance. [14:2&3 CRLR 164] As an alternative to the mandated listing on the inventory, CIWMB has permitted facilities to appeal to the Board, while allowing them to continue to operate. NRDC argued that PRC section 44104 provides a mandatory process for placing the facilities on the inventory, contended that the

Board's policy of permitting appeals of indefinite duration violates the specific statutory timeline, and requested that CIWMB's policy be set aside. The court found for NRDC, ruling that CIWMB's appeals policy is inconsistent with the prescribed statutory deadline and inventory requirements, and granted NRDC's petition for writ of mandate on this issue. The court also found for NRDC on the second issue, holding that the Board's indefinite appeals process is a regulation issued in violation of the APA.

The court heard extensive oral argument on the remaining two issues. On the issue of whether granting diversion credit for the landfilling of waste materials in the form of ADC constitutes a violation of AB 939, the court requested additional briefing from the parties. The court took the alleged CEQA violations under advisement pending a ruling regarding the underlying regulations, and advised the parties that it would issue its ruling on the two undecided issues after January 26.

FUTURE MEETINGS

January 24 in Sacramento.
February 27 in San Francisco.
March 27 in Sacramento.
April 23 in Modesto.
May 21 in Long Beach.
June 26 in Sacramento.
July 30 in Yukiah.
August 28 in Sacramento.
September 25 in Salinas.

DEPARTMENT OF PESTICIDE REGULATION

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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



REGULATORY AGENCY ACTION

(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

DPR/EPA Cooperation Continues.

In May, DPR announced that it had joined the U.S. Environmental Protection Agency (EPA) in approving the registration of tebufenozide, a new reduced-risk pesticide; Canada followed suit shortly thereafter.

According to DPR, this nearly simultaneous licensing of the chemical by the three agencies is the latest result of an ongoing harmonization project designed to establish equivalence between the United States and Canada in the process of risk-benefit assessment, tolerance-setting, and setting regulatory policies with respect to carcinogenic pesticides. [15:2&3 CRLR 145-46] In further pursuit of the project, two task forces set up by EPA, Canadian pesticide regulators, and DPR met to work out details in establishing generic databases to improve assessments of pesticide exposure to persons reentering treated lawns and fields.

In August, DPR and EPA announced that they will be sharing the workload of reviewing certain types of studies, thereby maximizing the use of each agency's resources and promoting uniformity. The two agencies will take the list of products intended for both the California and U.S. markets and delegate half to each agency.

EPA has already used some reviews completed by DPR to register new products; DPR expects that the data-sharing program can be used for about 80% of new evaluations. Because DPR and EPA will no longer have to perform duplicate evaluations, new and safer pesticide products may be brought to market more quickly.

The agencies' goal is to harmonize the way they review and interpret all types of studies submitted in support of registration by July 1996. When this occurs, DPR will be able to use EPA's reviews of data

submitted to support the registration of new active ingredients.

DPR Releases Strategic Plan. In June, DPR completed its *Strategic Plan for the Department of Pesticide Regulation, Volume 1: An Overview*; the document contains DPR's mission statement, vision for the future, and an overview of seven major issues which DPR must address in order to define and focus its goals and strategies. DPR is expected to publish a second volume which will contain action items for reaching those goals. The overall strategic plan is designed to bring focus to DPR's mission, clarify its direction, and improve organizational performance and staff morale.

Enforcement of the Birth Defect Prevention Act. As part of its mandate to enforce the Birth Defect Prevention Act of 1984, DPR recently took the following actions:

- **Reevaluation of Products Containing Methyl Parathion.** On June 21, DPR announced completion of its reevaluation of four products containing methyl parathion as an active ingredient. The basis for the reevaluation, which began in March 1991, was data which indicated that the use of methyl parathion on rice fields may present a hazard to aquatic organisms, particularly the estuarine mysid *Neomysis mercedis* in the Sacramento-San Joaquin estuary.

Pursuant to the reevaluation, the registrants were required to submit the following studies: an acute toxicity study using mayflies; an acute toxicity study using blue mussels; and an oyster shell deposition toxicity test. According to DPR, the submitted data indicate that currently-established use restrictions are sufficient to mitigate possible toxicity to aquatic organisms from the use of methyl parathion in rice fields.

- **Exemptions for Limited Use Products.** DPR has exempted seven pesticide products from the mandatory health effects data requirement of the Birth Defect Prevention Act. DPR determined that these products have only limited use in California, that there is insignificant exposure to workers and the public, and that the products are otherwise registered in compliance with federal law; the exemptions expire three years from the date of issue. The seven products are M-44 Cyanide Capsules, Magnacide 407, Magnacide 434, Magnacide 461, X-cide 380 Industrial Bactericide, Nalco Visco 1151, and Nalco Visco 1153.

DPR Releases Annual Pesticide Illness Report. In August, DPR released its annual document containing reported illnesses with a potential or confirmed link to pesticide use in agricultural and non-ag-

ricultural settings for the year 1993. In 1993, DPR received reports of 2,111 such illnesses. Of these, 1,435 were determined to have a potential or confirmed link to pesticide use, 618 involved incidents of eye or skin irritation, and 817 were systemic illnesses involving other types of symptoms. Most of the cases reported were occupational (those that occurred while people were at work) and over two-thirds of the cases involved non-agricultural uses; 582 cases were caused by exposure to disinfectants and other antimicrobials.

The data for this report were compiled by county agricultural commissioners and analyzed by DPR specialists. DPR uses the information to determine the need for changes in worker protection, label directions, or work practices in order to avoid overexposure to pesticides. [15:1 CRLR 135; 14:4 CRLR 155]

DPR Releases Results of Pesticide Residue Monitoring. In August, DPR released *1993 Residues in Fresh Produce*; DPR reports annually on the results of its produce monitoring program, in which samples of fresh fruits and vegetables are taken from various sites and analyzed to detect pesticides.

According to DPR, 6,066 samples were taken of 161 different fruits and vegetables. Of those samples, about 64% had no detectable residues, 34% had detectable residues below the tolerance level, and 1.57% had an illegal residue. This represents a slight increase from 1992, primarily because of increased surveillance of commodities with a history of pesticide violations, according to DPR. [15:1 CRLR 135; 13:4 CRLR 158]

The report also contains the results of DPR's priority pesticide program, which concentrates on pesticides of special health interest and uses only crops known to have been treated with one of these pesticides. In this program, 3,263 samples were taken. Although all of the samples had been treated, 76% contained no detectable residues; thirteen samples had illegal residues over the tolerance level.

Investigation of Methyl Bromide Alternatives. In September, a methyl bromide research task force consisting of staff from DPR and CDFA released a report outlining research needs in order to find alternatives to methyl bromide for California crops. Methyl bromide is widely used because it kills several different pests and can protect crops from the time before the soil is planted through post-harvest transport; EPA has scheduled methyl bromide for phase-out by 2001 because of possible impacts on the ozone layer.

California is one of the largest users of methyl bromide, but is also a leader in the adoption of nonchemical farming ap-



proaches; thus, California may be the ideal site for the testing of alternatives to methyl bromide. Without alternatives, the total economic impact of losing methyl bromide has been estimated at over \$230 million annually. DPR and CDFA formed a task force in 1993 to explore alternative technologies and procedures.

While no alternatives have yet been found that are effective enough to be a true replacement, the task force agreed on a number of goals for continued research in this area, including the development of a more comprehensive understanding of pests, commodities, and how both are affected by various pest management treatments; the development of new crop production systems; the identification of regulatory impediments to the adoption of alternatives; and the formation of an independent panel to oversee the USDA's research efforts in this area. The task force also recommends the development of a strategic plan for California that would establish research goals, timetables, priorities, funding, and implementation. DPR intends to follow up the task force's recommendations in the next few months.

DPR Conducts Workshops on Pesticide Regulation. In October, DPR held a series of workshops in Anaheim, Sacramento, Visalia, and Greenfield to solicit comments on ways to improve California's pesticide regulatory program. All interested parties were invited to help DPR analyze its regulations and practices in order to reduce unnecessary burdens and more effectively protect public health and the environment. DPR's workshops focused on a "strawman" document released by DPR in October, which presented hypothetical changes in laws and regulations or DPR policies and processes as a starting point for discussion.

Companies Penalized for Pesticide Violations. In September, DPR levied a \$50,822 civil penalty against Lonza Inc. of New Jersey for selling unregistered pesticides in California in 1992 and 1993; before being sold in California, pesticide products must be registered by DPR. The sales of Hyamine 1622-50%, Barquat 50-28, and Bio-Surf 1-20 were discovered during a routine DPR audit of reported pesticide sales.

The following month, DPR discovered that in 1991 Monsanto Co. sold the unregistered products Greensweep Spray-on Liquid Weed and Feed and Round-Up in California. After investigation, DPR determined that Monsanto's illegal sales were not deliberate and therefore waived any monetary penalty; instead, Monsanto will sponsor the development of a household hazardous waste information manual and brochure.

DPR's IPM Efforts. In furtherance of its efforts to promote and encourage integrated pest management (IPM) techniques, DPR announced on November 30 the four 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 Napa County Resource Conservation District, Magalia Nursery of the California Department of Forestry and Fire Protection, the Imperial County Whitefly Management Committee, and the California Clean Growers' Association. According to DPR, the recipients are all engaging in efforts to reduce the urban use of pesticides while maintaining economical and effective pest suppression.

DPR Releases New Pest Management Strategy. A recent DPR report entitled *Pest Management Strategy for the Department of Pesticide Regulation* describes the role that state regulators should play in the evolution of pest management as increasing numbers of pesticide users turn to reduced-risk methods of controlling pests. The document, released in November, addresses ways to minimize risk wherever pesticides are used, including offices, schools, urban landscapes, and homes. DPR's role in pest management activities is delineated as one of ensuring that pesticides are used and distributed safely, and of encouraging the development and use of more environmentally benign pest management systems.

The report notes that the four main goals of DPR's pest management strategy are to incorporate a reduced-risk pest management philosophy throughout the California pesticide regulatory program; advocate and facilitate the adoption of economically viable reduced-risk pest management practices; provide leadership in working cooperatively with other interested parties to promote research, education, and demonstration of reduced-risk pest management practices; and evaluate the effectiveness of its efforts to facilitate the adoption of reduced-risk pest management practices.

Employee Conflict of Interest Code. On December 8, DPR announced its intention to amend its conflict of interest code, found in Title 3 of the CCR; the code designates DPR employees who must disclose certain investments, income, interests in real property, and business positions, as well as employees who must disqualify themselves from making or participating in the making of governmental decisions affecting those interests, and enumerates the positions within DPR that make or participate in DPR's decisionmaking

process. The proposed changes would add several new positions within DPR which make or participate in DPR's decisionmaking process and are not listed in the current conflict of interest code; several positions which do not involve making or participating in DPR's decisionmaking process would be deleted as well. At this writing, no public hearing is scheduled; DPR will accept public comments on this proposed action through February 8.

DPR Prohibits Use of Tributyltin- and Copper-Containing Pesticides in Bay Area. On October 20, DPR adopted new sections 6910 and 6920, Titles 3 and 26 of the CCR, emergency regulations which ban the possession, sale, and use of certain tributyltin- and copper-containing pesticides in the San Francisco Bay area. These emergency regulations are pursuant to the Water Resources Control Board's adoption and enforcement of water quality objectives for copper and tributyltin in the Bay Area, which have been regularly violated by publicly-owned treatment works in that area.

Specifically, section 6910 prohibits the possession, sale, and use of products that contain tributyltin (neodecanoate and oxide) and are registered for use in cooling towers and open recirculating water systems to control microorganisms. Section 6920 prohibits the possession, sale, and use of copper-containing products used to control roots and fungal slime in sewers and drains. These regulations apply in the counties of Alameda, Contra Costa, Marin, Napa, San Francisco, San Mateo, Santa Clara, Solano, and Sonoma.

However, the Office of Administrative Law (OAL) disapproved DPR's emergency regulatory action on October 30. According to OAL, DPR's finding of emergency did not present facts sufficient to show that the adoption of the two regulations is necessary for the immediate preservation of the public peace, health and safety, or general welfare. DPR subsequently amended the rulemaking file and resubmitted it to OAL, which approved the emergency action on December 11; the emergency regulations are effective for 120 days.

Pest Management Advisory Committee. On June 30, DPR published notice of its intent to adopt section 6256, Titles 3 and 26 of the CCR, in order to establish the Pest Management Advisory Committee in regulation and specify the scope and purpose of its advisory role; the proposed regulation would also specify the Committee's membership and operating procedures. DPR did not hold a public hearing on this proposed action; at this writing, the section awaits review and approval by OAL.



REGULATORY AGENCY ACTION

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

• **Dealer Sales Reporting Requirement.** On September 5, OAL approved DPR's repeal of section 6562(c), Titles 3 and 26 of the CCR, to bring its regulations into conformity with changes in the law brought about by the enactment of AB 468 (Jones) (Chapter 145, Statutes of 1993). [15:2&3 CRLR 146; 13:4 CRLR 161] According to DPR, AB 468 reduced a dealer's requirement for the filing of quarterly sales reports to include only the sale of pesticides to persons who are not required to file a pesticide use report. Section 6562(c) required licensed pesticide dealers to submit quarterly sales records to the DPR Director, reporting the sale or delivery of pesticides that contain chemicals listed on the Groundwater Protection List. According to DPR, section 6562(c) conflicted with the law as amended by AB 468, and had to be repealed.

• **Copper Sulfate Regulation.** On July 13, and November 17, DPR readopted its emergency repeal of section 6402(g)(9), Titles 3 and 26 of the CCR. The repeal removes copper sulfate (basic, monohydrate, and pentahydrate) from the list of exempt materials for which additional restrictions—other than registration and labeling requirements—are not necessary under FAC section 14006.7. [15:2&3 CRLR 146] Removal of the chemical from the exempt list requires users to obtain a permit for its use from the county agricultural commissioner. The use of copper sulfate in reservoirs along the Owens River and the Los Angeles Aqueduct in Inyo County has resulted in fish kills. Copper sulfate is used by the Los Angeles Department of Water and Power to control algae that can reduce water flow in the Los Angeles Aqueduct, impart unpleasant taste and odors to the water, and interfere with the operations of the Los Angeles Aqueduct filtration plant.

Meanwhile, on September 15, DPR published notice of its intent to permanently remove copper sulfate (basic and pentahydrate) from the list of exempt materials. DPR held a public hearing on the proposed regulatory change on November 13 in Sacramento and subsequently adopted the change, which awaits review and approval by OAL.

• **Clean-Up Rulemaking Package.** On May 31, OAL approved DPR's amendments to sections 6400 and 6684 and proposed repeal of sections 2452.1, 2452.2, 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. Among other things, these changes 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. [15:2&3 CRLR 146; 15:1 CRLR 136]

• **Protocols for Testing Pesticides on Humans.** On May 26, OAL approved DPR's amendments to sections 6000, 6177, 6183, and 6710, Titles 3 and 26 of the CCR, which establish protocols 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. [15:2&3 CRLR 147; 15:1 CRLR 137]

• **Metam Sodium and MITC as Restricted Materials.** On June 27, OAL approved DPR's amendments to section 6400, Titles 3 and 26 of the CCR, which add metam sodium and methyl isothiocyanate (MITC) to its current list of restricted materials. [15:2&3 CRLR 147; 15:1 CRLR 137] Placing metam sodium and MITC on the restricted materials list requires users to obtain a permit from the county 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.

■ LEGISLATION

SB 800 (Monteith). Existing law prohibits the use of agricultural chemicals designated by the DPR Director as restricted materials for any agricultural use except in accordance with a written permit of the county agricultural commissioner pursuant to regulations adopted by the Director. As amended September 1, this bill limits the authority of the Director to adopt regulations providing for the issuance of permits, as specified.

Existing law also prohibits the possession or use of restricted materials except by qualified applicators who are certified pursuant to regulations adopted by the Director. This bill generally provides that restricted materials may be possessed or used by, or under the direct supervision of, a private applicator licensed pursuant to the bill, or by a certified commercial applicator, as defined by regulation. The bill provides for the issuance of certificates after examination to private applicators by county agricultural commissioners or by the Director in counties where there are no commissioners. This bill was signed by

the Governor on October 9 (Chapter 705, Statutes of 1995).

AB 697 (Cannella). Existing law requires every manufacturer of, importer of, or dealer in any economic poison, except as specified, to obtain a certificate of registration from DPR before the economic poison is offered for sale. As amended July 11, this bill provides that alfalfa and all vegetable crops, when grown for seed production, except as specified, shall be considered a nonfood and nonfeed site of pesticide use for the purpose of pesticide registration. The bill specifies that these provisions shall not be construed to exempt DPR from reviewing worker safety evaluations with regard to the use of pesticides involving these crops. The bill also provides that any violation of the conditions specified in the bill by the person responsible for the use of the economic poison is a violation of the provisions governing the registration of pesticides generally. The bill specifies that a violation of a condition specified in the bill by the person responsible for the disposition of seed screenings would be a violation of the provisions governing commercial feed. This bill was signed by the Governor on August 3 (Chapter 287, Statutes of 1995).

AB 389 (Cannella). The Sacramento-San Joaquin Valley Wetlands Mitigation Bank Act of 1993 defines "bank site" and "mitigation bank site" for the purposes of that Act. Excluded from these definitions is land on which rice is produced that provides significant wetland habitat value. As amended September 6, this bill instead provides, among other things, that a "bank site" or "mitigation bank site" may include any lands on which rice is grown, as long as those lands are managed as rice lands and meet other specified criteria.

This bill also enacts the Cannella Environmental Farming Act of 1995, and requires CDFA to establish and oversee an environmental farming program to provide incentives to farmers whose practices promote the well-being of ecosystems, air quality, and wildlife and their habitat. The bill requires the CDFA Secretary to convene a Scientific Advisory Panel on Environmental Farming for the purpose of providing advice and assistance with respect to various matters. This bill was signed by the Governor on October 14 (Chapter 928, Statutes of 1995).

AB 568 (Brown). Existing law generally requires a person or entity engaged in the practice of structural pest control to be licensed by the Structural Pest Control Board. Certain persons or entities are exempt from the licensing requirement, including public utilities, persons engaged in agricultural pest control work, govern-



mental agencies, and educational institutions engaged in research or study of pest control, as specified. As amended July 15, this bill additionally exempts from the licensing requirement persons engaged in the live capture and removal of vertebrate pests, as defined, or bees or wasps, from structures without the use of pesticides, if the person maintains specified insurance coverage. The bill provides that the licensing exemption does not exempt a person from compliance with the California Endangered Species Act. The bill also makes related changes.

Existing law provides that the Board or certain commissioners, when properly designated, may suspend the right of a structural pest control licensee or registered company to work for three days or may levy a fine of up to \$500 for each violation of specified provisions and regulations. This bill increases the possible fine to \$1,000, and also makes that fine applicable to an unlicensed individual acting as a licensee. This bill was signed by the Governor on October 9 (Chapter 718, Statutes of 1995).

AB 816 (Murray). Under existing law, a person is not eligible to be examined for, or issued a license as a county agricultural commissioner or deputy commissioner or as a county agricultural inspector unless the person has a bachelor's degree, with a specialization in agricultural or biological sciences. Existing law exempts from those requirements a person who holds a certificate of qualification issued prior to January 1, 1985. As amended September 8, this bill also makes a person eligible for that examination or license who has a bachelor's degree with a specialization in chemical or physical science, or other appropriate disciplines. The bill also changes the exemption from that requirement to exclude persons holding a valid license of qualification in weights and measures under specified conditions.

Existing provisions of the Government Tort Claims Act provide, among other things, that a public employee is not liable for an injury resulting from the employee's act or omission when the act or omission was the result of an exercise of discretion. Existing law also provides that a public entity is not liable for an injury resulting from an employee's act or omission if the employee is immune from liability. This bill would make those provisions applicable specifically to decisions of a county department of agriculture and an employee of a county department of agriculture enforcing a state or local pest control or pest eradication statute, regulation, or ordinance. This bill was signed by the Governor on October 12 (Chapter 818, Statutes of 1995).

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 revenue received from the sale of registered agricultural economic poisons, and revenue received from the sale of registered nonagricultural economic poisons. The bill would permit DPR use any funds available to it for the preparation of the study and report. [A. Appr]

AB 1561 (Harvey). Existing law requires a thorough evaluation by DPR before a substance is registered as an economic poison for the first time in this state. As amended April 17, this bill also would require the evaluation to be timely. [S. AWR]

SB 802 (Monteith). Existing law prohibits the sale or distribution into or within this state of any economic poison products that have been registered by the DPR Director and that are labeled for agricultural use unless the person is licensed by the Director as a pesticide broker. Existing law requires each licensed pesticide broker to pay to the Director an assessment, as specified, for all sales by the broker into or within this state of registered economic poisons labeled for agricultural use, where the broker is the person who first sold the economic poison into or within this state. As amended April 17, this bill would instead require every person who is required to be licensed as a pesticide broker to pay this assessment. The bill would also make technical changes in those provisions.

The bill also would provide that every person who is required to be licensed as a pesticide broker and who is deficient in the payment of an assessment that is due and payable shall pay the assessment, as prescribed by the Director. In addition, the bill would authorize the Director to add a penalty of 10% of the amount that is due and payable to defray the cost of collecting the deficient payment. [A. Agri]

AB 179 (Battin). Existing law requires a thorough evaluation by DPR before a substance is registered as an economic poison for the first time in this state. As amended January 23, this bill would permit the DPR Director to issue an emergency exemption from registration for an economic poison under the conditions set forth in the bill. [A. Appr]

LITIGATION

In *Macias v. State of California*, No. S039245 (July 17, 1995), the California Supreme Court considered whether the defendant manufacturers and distributors of malathion—a chemical sprayed on areas

of California to combat Medfly infestation—had a duty to disseminate health warnings to the public or to take other measures to protect the general welfare, after they became aware of certain alleged deficiencies in CDFA's warnings. Reversing a decision of the Second District Court of Appeal [14:2&3 CRLR 172; 12:2&3 CRLR 196-97], the court concluded that no such duty devolved upon these defendants, and that it was reasonable for them to rely on CDFA to convey the requisite EPA-approved warnings to the residents of a Medfly spray area.

RECENT MEETINGS

At PAC's June 16 meeting, a representative of the Water Resources Control Board (WRCB) gave a presentation on how water quality standards are set and the interaction between the state and regional water boards. WRCB has created task forces to help it formulate a new inland surface waters plan and bays and estuaries plan. One such task force, the Chemical Specific Objectives task force, has listed ten pesticides that are of concern but for which EPA has set no objectives.

At PREC's November 17 meeting, Peggy Taricco and Barbara Fry of the Air Resources Board (ARB) presented a report on the air emissions of volatile organic compounds (VOCs) from consumer products. A new regulation which becomes effective in January 1996 will reduce the amount of VOCs emitted from consumer products, some of which contain household insecticides, including general purpose cleaners, disinfectants, insect repellants, and other pesticides that can be purchased without a permit or special license. The new regulation calls for a reduction of 50-80% of the pesticide, depending on what category it falls into (see agency report on ARB for related discussion).

FUTURE MEETINGS

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

WATER RESOURCES CONTROL BOARD

Executive Director: Walt Pettit
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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