



REGULATORY AGENCY ACTION

at least 30 Class III landfills regulated by CIWMB accept ACW. However, the Board has no jurisdiction over hazardous waste activities at these landfills—a landfill which accepts both hazardous waste and other solid waste must obtain a hazardous waste facilities permit (HWFP) from the Department of Health Services (DHS) and a SWFP from CIWMB. PRC section 43211 states that DHS has regulatory authority for the disposal of hazardous wastes at landfills which accept both hazardous wastes and non-hazardous solid wastes, and that CIWMB has regulatory authority only over disposal of non-hazardous wastes at these facilities.

In a disturbing July 1991 report, CIWMB's Permitting and Enforcement Committee contends that—contrary to PRC section 44103(b)—DHS is no longer issuing HWFPs to landfills which accept both hazardous and non-hazardous waste; it is apparently leaving that task to CIWMB and the regional water quality control boards, which must find that hazardous waste disposal activities do not pose a significant threat to groundwater quality. However, under PRC 43211, CIWMB has no regulatory or enforcement over hazardous waste disposal activities. Worse yet, according to the Committee's report, "CIWMB has yet to develop and implement a respiratory protection program required by federal law for employees working in and around asbestos. For at least the past 3 years, CIWMB staff has therefore been directed not to inspect solid waste facilities which accept ACW. This has resulted in a situation where the CIWMB is concurring with LEAs in the issuance of SWFPs which allow ACW disposal (in violation of PRC section 44301(b) and 14 CCR 17742) while the CIWMB staff has been directed not to inspect these facilities."

The report also reveals the fact that due to DHS' failure to issue HWFPs under PRC section 44103(b), one asbestos disposal facility—Calaveras Asbestos Monofill near Copperopolis in Calaveras County—is operating without a HWFP or a SWFP. CIWMB's report concludes that DHS' abdication of its authority to manage hazardous waste disposal leaves a void in the enforcement of state and federal requirements, and that CIWMB should initiate discussion with DHS on the best way to deal with this issue.

FUTURE MEETINGS:

April 23 in Oakland.

DEPARTMENT OF PESTICIDE REGULATION

*Interim Director: James Wells
(916) 654-0551*

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 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 (Food and Agricultural Code 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 rec-

ommends 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 is the Agricultural Pest Control Advisory Committee, established in Food and Agricultural Code section 12042 *et seq.*, which makes recommendations on how the state can improve its existing analytical methods for testing produce and processed foods for the presence of pesticide residues.

At this writing, the DPR Director has not yet been appointed by Governor Wilson. DPR's Interim Director is James Wells.

MAJOR PROJECTS:

Rulemaking Under the Pesticide Prevention Contamination Act. Last summer, DPR commenced two major rulemaking proceedings under the Pesticide Contamination Prevention Act of 1985 (PCPA), which was enacted to prevent pesticide pollution of the groundwater aquifers of the state. The PCPA provides mechanisms for identifying and tracking potential and actual groundwater contaminants. It also establishes procedures for reviewing chemicals found in groundwater or in soil as a result of legal agricultural use, and for modifying or cancelling use of such chemicals. The PCPA requires DPR to take specified actions which combine to form three major processes: (1) establishment of a data base of wells sampled for pesticides; (2) data collection and analysis, identification, and monitoring of potential contaminants; and (3) review of findings of pesticide contamination and imposition of necessary mitigation measures. (See CRLR Vol. 11, No. 2 (Spring 1991) pp. 164-65 for background information.)



In the first rulemaking proceeding, DPR proposes to amend section 6802, Titles 3 and 26 of the CCR. Under the PCPA, DPR has established a list of groundwater protection restrictions and use requirements to modify the use of certain chemicals in pesticide management zones (PMZs). (See CRLR Vol. 9, No. 2 (Spring 1989) p. 94 for background information.) The proposed amendments to section 6802 would add 94 additional PMZs in eight counties to its list of geographic areas demonstrated to be sensitive to groundwater contamination by pesticides containing atrazine, simazine, bromacil, and diuron. The public comment period regarding these amendments closed on July 29; this proposal still awaits review and approval by the Office of Administrative Law (OAL).

In the second rulemaking proceeding, DPR proposes to amend section 6800(b) to add 38 chemicals to those already identified in the Groundwater Protection List as having the potential to pollute groundwater due to their mobility and longevity in soil; consolidate section 6572 with section 6562 into revised section 6562, which will be entitled "Dealers Record and Sales Reporting"; and repeal section 6417 and amend section 6416, to permit the use of the chemicals listed on the Groundwater Protection List for research purposes, subject to authorization by the DPR Director. (See CRLR Vol. 11, No. 4 (Fall 1991) pp. 164-65 for background information on these changes.) The public comment period on these regulatory changes ended on September 30; at this writing, the rulemaking record awaits review and approval by OAL.

On December 12, OAL approved DPR's amendments to sections 6800(a), 6400(n)(10), 6416, and 6570(a), the adoption of section 6486.6, and the repeal of section 6484, Titles 3 and 26 of the CCR. These changes add bentazon, also known by the trade name Basagran, to the Groundwater Protection List, and modify its use statewide. (See CRLR Vol. 11, No. 4 (Fall 1991) pp. 165-66 and Vol. 11, No. 1 (Winter 1991) p. 111 for background information.) The agricultural, outdoor institutional, and outdoor industrial use of bentazon is now regulated under the PCPA, as of January 12.

On December 12, DPR published notice of its intent to amend section 6804, Titles 3 and 26 of the CCR, to revise the existing specific numerical values (SNVs) for aerobic soil metabolism and establish a SNV for anaerobic soil metabolism. Under the PCPA, DPR is required to establish SNVs for physi-

cal and chemical properties associated with the tendency of a pesticide to leach through the soil and contaminate the underlying groundwater. Food and Agricultural Code section 13144(a) provides for the revision of SNVs as new data become available. The values established by DPR are required to be at least equal to those established by the U.S. Environmental Protection Agency (EPA); however, EPA has not established any SNVs to date.

This regulatory action would reduce the SNV for aerobic soil metabolism from 730 to 610 days half-life, and would establish an anaerobic soil metabolism SNV at nine days half-life. According to DPR, sufficient data do not currently exist to determine an SNV for field dissipation, an additional requirement.

At this writing, no public hearing is scheduled; DPR was scheduled to accept public comments on this proposed regulatory change until February 7.

Pesticide Sales Reporting and Mill Assessment Reports. On December 22, DPR submitted its proposed amendments to section 6388, Titles 3 and 26 of the CCR, to OAL for approval. Among other things, the amendments would require registrants to report quarterly in a specified format to the DPR Director the total dollar sales and quantity of each registered pesticide product sold for use in California. (See CRLR Vol. 11, No. 4 (Fall 1991) p. 165 for background information.) OAL had thirty working days to review the rulemaking record.

Conflict of Interest Code. On November 26, DPR published notice of its intent to adopt a conflict of interest code pursuant to the Political Reform Act of 1974, Government Code section 81000 *et seq.* DPR's proposed code would designate employees who must disclose certain investments, income, interests in real property and business positions, and employees who must disqualify themselves from making or participating in the making of governmental decisions affecting those interests. The code would enumerate the positions within DPR that participate in decisionmaking processes and describe in three separate "disclosure categories" the types of investments, income, real property, and business positions to be disclosed by employees in each of the designated categories. At this writing, no public hearing is scheduled; DPR accepted public comments on this proposed regulation until January 21.

DPR Tightens Regulations Regarding Monitoring of Human Participants for Pesticide Exposure. On November

22, DPR published notice of its intent to amend sections 6177, 6183, and 6170, Titles 3 and 26 of the CCR, to establish procedures for the review of protocols for any study, the purpose of which includes the monitoring of human participants for pesticide exposure.

Division 6, Chapter 2, Subchapter 1, Articles 2 and 3 of the CCR list data required for the registration of an economic poison in California. Sections 6177 and 6183, Titles 3 and 26 of the CCR, refer to studies which involve the exposure of humans to pesticides. The proposed amendments would clarify and update the requirements to reflect the proposed changes to section 6170. Proposed section 6170 establishes procedures to assure the safety of human participants involved in studies that involve exposing them to pesticides. Proposed section 6170(a) would clarify that the DPR Director must approve any study in which humans are monitored for pesticide exposure. Proposed sections 6170(b)-(c) would establish that all protocols submitted to the Director for review will be concurrently reviewed by Cal-EPA's Office of Environmental Health Hazard Assessment; after review, the protocol would be submitted to an independent committee of the University of California. Proposed section 6170(e) would establish that approval of a protocol is granted for a certain period of time and that, after that time period, the approval of the protocol must be renewed. Proposed section 6170(f) would establish procedures for making changes to an approved protocol. Proposed section 6170(g) would exempt studies which have been approved by a human subject review board of any university or medical institution in California from the review process described in section 6170(c). Proposed section 6170(h) would identify persons who may order the cessation of studies in which humans are exposed for the purpose of monitoring. Proposed section 6170(i) would establish exemptions from section 6170 for certain types of studies.

DPR's tightening of its human subject regulations apparently stems from a 1988 incident in which paid college students participating in a research project whose protocol was approved by the Department of Food and Agriculture were exposed to excessive levels of the pesticide phosalone (commercially known as Zolone). (See CRLR Vol. 10, No. 1 (Winter 1990) p. 119 for background information.)

At this writing, no public hearing is scheduled; DPR received public com-



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ments on these proposed changes until January 15.

Status Update on Other Proposed Regulatory Changes. The following is an update on the status of other regulatory changes proposed and/or adopted by DPR and discussed in recent issues of the *Reporter*:

-Dietary Risk Assessment Regulations. At this writing, DPR has not yet submitted to OAL its proposed adoption of new section 6193.5 and amendments to section 6194, Title 3 of the CCR. These changes would establish which acute effects data are needed to conduct dietary risk assessments, specify that such data must be submitted prior to registration of pesticides containing new active ingredients for use on food, and establish procedures to obtain acute effects pursuant to Food and Agricultural Code section 13060 for currently-registered pesticides. (See CRLR Vol. 11, No. 4 (Fall 1991) p. 165 and Vol. 11, No. 3 (Summer 1991) pp. 146-47 for background information.)

-Standards for Use of Chloropicrin and Methyl Bromide in Field Fumigation. On September 26, DPR released a modified version of its regulatory proposal to establish stringent use requirements for the field applications of methyl bromide and chloropicrin. The modified proposal, which would amend sections 6450 and 6784 and adopt section 6451 in Titles 3 and 26 of the CCR, would shift responsibility for worker and public safety from the person applying the fumigant to the operator of the property to be treated. (See CRLR Vol. 11, No. 4 (Fall 1991) p. 165 and Vol. 11, No. 3 (Summer 1991) p. 147 for background information.) DPR accepted public comments on the modified version of this proposed regulatory action until October 18; at this writing, the proposal awaits review and approval by OAL.

-Hazard Communication Procedures Between Employers and Employees. On December 6, OAL approved DPR's amendments to sections 6618 and 6724, and adoption of sections 6723 and 6761, Titles 3 and 26 of the CCR, pertaining to hazard communication procedures between employers and employees who may be exposed to pesticides during the course of their work. (See CRLR Vol. 11, No. 4 (Fall 1991) p. 165; Vol. 11, No. 3 (Summer 1991) p. 148; and Vol. 11, No. 2 (Spring 1991) p. 135 for background information.) These regulatory changes became effective on January 1.

-Economic Poison Registration Procedures. Following a review of the public comments received regarding its modified proposal to renumber existing

sections 6151, 6152, and 6153, amend sections 6152 and 6154, and adopt new sections 6153, 6153.5, and 6155, Titles 3 and 26 of the CCR, DPR decided not to pursue this regulatory action. The proposal would have established procedures to be followed by registrants when there is a change in the ownership of an economic poison, a change in the name of the registrant of an economic poison, or a change in the formulation of an economic poison. (See CRLR Vol. 11, No. 4 (Fall 1991) p. 168; Vol. 11, No. 3 (Summer 1991) p. 148; and Vol. 11, No. 1 (Winter 1991) p. 111 for background information.)

LEGISLATION:

SB 926 (Petris), as amended September 11, would enact the School Pesticide Use Reduction Act, requiring, among other things, the DPR Director to cancel the registration of any school-use pesticide, as defined, that contains any active or inert ingredient known to cause cancer or known to cause reproductive harm during its registration renewal period in 1993, or any renewal period thereafter, unless the label specifically proscribes the use of the pesticide at a school facility and a child day care facility. This bill was rejected by the Assembly Ways and Means Committee on August 29, but was granted reconsideration.

AB 1325 (Jones), as amended September 13, and **AB 1377 (Areias)** are two-year bills which would both authorize the DPR Director to cancel the registration of, or refuse to register, any economic poison if the Director determines that the registrant has failed to submit data required to be submitted as part of the reevaluation of the registrant's product. **AB 1377** is pending in the Senate Agriculture and Water Resources Committee; **AB 1325** was passed by both the Assembly and Senate but is pending as unfinished business following the Assembly's refusal to concur in Senate amendments.

AB 1715 (Hayden). Existing law requires each registrant of an economic poison to pay an assessment to the DPR Director for all sales of that registrant's economic poisons for use in this state and establishes the amount of that assessment at 18 mills per dollar of sales until June 30, 1992, at which time it would be reduced to 9 mills per dollar of sales. As amended May 22, this bill would establish the amount of that assessment, commencing July 1, 1992, at 14 mills per dollar of sales; require DPR, commencing July 1, 1992, to allocate an amount equal to 5 mills of those funds, annually, to the Environmental

Policy Council; and require the Secretary of Environmental Protection to request that DPR cancel the registration of an economic poison that contains an active ingredient known to the state to cause cancer or reproductive harm or that has acute toxicity, if the Secretary finds that an effective and commercially available economic poison has been developed as an alternative. This two-year bill is pending in the Assembly Agriculture Committee.

AB 1206 (Areias). Existing law authorizes the DPR Director to seize and hold any lots of produce, or any unharvested produce that is within one week of being in harvestable condition, which carries or is suspected of carrying pesticide residue or other added deleterious ingredients in violation of designated provisions regulating pesticide residue. This bill would include any agricultural commodity grown for food within that provision. This two-year bill is pending in the Assembly Agriculture Committee.

AB 1214 (Jones) would require the DPR Director to conduct a study to evaluate recommendations relating to the various uses of economic poisons, taking into consideration variations in the use of pesticides based on variations in pest populations, weather, geographic areas, and agricultural products. This two-year bill is pending in the Assembly Agriculture Committee.

AB 1854 (Connelly) would require the DPR Director to adopt permissible tolerances for pesticide chemicals in or on produce, and require those tolerances to be the tolerances determined by Department of Health Sciences (DHS). This bill would prohibit the Director from registering or renewing a registration for a food use economic poison, unless the applicant for registration has set a tolerance for the food use economic poison and demonstrated to the satisfaction of DHS that the tolerance meets certain requirements. This two-year bill is pending in the Assembly Committee on Environmental Safety and Toxic Materials.

SB 46 (Torres) would revise the definition of toxic air contaminant to delete an exclusion for pesticides and to include specified substances. This bill is pending in the Senate Appropriations Committee.

AB 816 (Jones) would declare that designated provisions of the Food and Agricultural Code relating to the storage of economic poisons are of state-wide concern and occupy the whole field of regulation, thereby preventing local governments from regulating any matter relating to the storage of eco-



conomic poisons. This two-year bill is pending in the Assembly Agriculture Committee.

RECENT MEETINGS

The devastating infestation of the poinsettia strain of the sweet potato whitefly was one of various topics discussed at the November meeting of DPR's Pesticide Advisory Committee. This strain of whitefly has been found in Arizona, Texas, Georgia, Florida, Mexico, and California. However, no effective pesticides currently registered adequately control the pest. One possible method to eradicate the fly is through the use of "beneficials" such as predator insects and fungi, which will eat the pest targeted for extermination. The problem with this method is that common chemical application may kill the beneficials. The Committee noted that this problem could be overcome by applying chemicals at night, if the beneficials are known to feed during the day.

Current efforts to find a solution to the whitefly problem include Governor Wilson's formation of a Blue Ribbon Task Force to examine the issues and summarize the current status of the problem and possible resolutions. The task force is funded by, among others, grower groups and chemical companies. In addition, various California universities are researching the matter and Coachella Valley has formed a whitefly management committee which plans to work with growers to organize a cyclical crop planting plan to disrupt the whitefly's breeding pattern. The plan involves growers planting each crop in a different cycle; between cycles, the whitefly would have nowhere to breed because all crops would be harvested. Because no relief from the infestation is expected in the near future, DPR fears that the whitefly may eventually move into the San Joaquin Valley.

FUTURE MEETINGS:

DPR's Pesticide Advisory Committee and Pesticide Registration Evaluation Committee regularly meet to discuss issues of practice and policy with other public agencies; both committees meet in the annex of the Food and Agriculture Building in Sacramento. The Pesticide Advisory Committee, which meets every other month, is scheduled to meet on May 17, July 17, September 18, and November 20. The Pesticide Registration Evaluation Committee is scheduled to meet on April 17, May 15, June 19, July 17, August 21, September 18, October 16, November 20, and December 18.

WATER RESOURCES CONTROL BOARD

Executive Director: Walt Pettit
Chair: W. Don Maughan
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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 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 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.

The Board 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.

The Board continues to operate with only four members, following the December 1990 resignation of Darlene Ruiz, an attorney. At this writing, Governor Wilson has not yet named a replacement to fill the vacant position.

MAJOR PROJECTS:

Drought Update. October 1 marked the start of the new water year as California entered its sixth consecutive year of drought. In November, the Legislative Analyst's Office (LAO) released an issue paper entitled *A Perspective on the Drought in California*. The report states that the amount of water stored in 155 of the state's major reservoirs is only 61% of the average amount stored; this equals the amount stored one year ago, despite heavy rains in March 1991. Consequently, California continues to face drought conditions similar to the previous water year, during which strict conservation measures were imposed in some areas and significant reductions in water supplies were experienced by many agricultural users. (See *supra* agency report on LAO for related discussion.)

According to LAO's report, the most important source of California's water in a normal year is surface water projects—diversions of water from rivers and streams which provide California with 75% of its water. These surface water projects are operated by local governments, the federal government, and the state. Approximately 80% of the water from surface projects is used by agriculture; 16% is used by the municipal and industrial sectors; and 4% is used for wildlife, recreation, and energy production. The most important federal and state projects in California are the Central Valley Project (CVP) and the State Water Project (SWP), which bring water from northern California through the San Francisco Bay/Sacramento-San Joaquin Delta Estuary to the San Joaquin Valley and southern California.

In response to the drought, Governor Wilson proposed a \$53.4 million legislative package in the spring of 1991, targeting most of the funding at increasing fire suppression activities and reducing the drought's impact on fish. The Governor also established a water bank to purchase water, primarily from farmers, in order to sell and transfer water to the cities, districts, and individuals most severely affected by the drought. Only those municipal areas receiving less than 75% of their normal water supplies and agricultural areas suffering potentially permanent loss of production are eligible for allocations from the water bank. With initial funding of \$10 million (loaned by the State Water Project), the water bank purchased approximately 835,000 acre-feet of water (one acre-foot is about the amount of water needed to supply a family of five for one year). As of Oc-