



DEPARTMENT OF FOOD AND AGRICULTURE

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Director: Henry Voss
(916) 654-0433

The California Department of Food and Agriculture (CDFA) promotes and protects California's agriculture and executes the provisions of Food and Agricultural Code section 101 *et seq.*, which provides for CDFA's organization, authorizes it to expend available monies, and prescribes various powers and duties. The legislature initially created the Department in 1880 to study "diseases of the vine." Today the Department's functions are numerous and complex. Among other things, CDFA is authorized to adopt regulations to implement its enabling legislation; these regulations are codified in Chapters 1-7, Title 3, Chapters 8-9, Title 4, and Division 2, Title 26 of the California Code of Regulations (CCR).

The Department works to improve the quality of the environment and farm community through the exclusion, control, and eradication of pests harmful to the state's farms, forests, parks, and gardens. The Department also works to prevent fraud and deception in the marketing of agricultural products and commodities by assuring that everyone receives the true weight and measure of goods and services.

CDFA collects information regarding agriculture and issues, broadcasts, and exhibits that information. This includes the conducting of surveys and investigations, and the maintenance of laboratories for the testing, examining, and diagnosing of livestock and poultry diseases.

The executive office of the Department consists of the director and chief deputy director, who are appointed by the Governor. The director, the executive officer in control of the Department, appoints two deputy directors. In addition to the director's general prescribed duties, he/she may also appoint committees to study and advise on special problems affecting the agricultural interests of the state and the work of the Department.

The executive office oversees the activities of six operating divisions:

1. Division of Animal Industry—provides inspections to assure that meat and dairy products are safe, wholesome, and properly labeled, and helps protect

cattle producers from losses from theft and straying;

2. Division of Plant Industry—protects home gardens, farms, forests, parks, and other outdoor areas from the introduction and spread of harmful plant, weed, and vertebrate pests;

3. Division of Inspection Services—provides consumer protection and industry grading services on a wide range of agricultural commodities;

4. Division of Marketing Services—produces crop and livestock reports, forecasts of production and market news information, and other marketing services for agricultural producers, handlers, and consumers; oversees the operation of marketing orders and administers the state's milk marketing program;

5. Division of Measurement Standards—oversees and coordinates the accuracy of weighing and measuring goods and services; and

6. Division of Fairs and Expositions—assists the state's 80 district, county, and citrus fairs in upgrading services and exhibits in response to the changing conditions of the state.

In addition, the executive office oversees the Agricultural Export Program and the activities of the Division of Administrative Services, which includes Departmental Services, Financial Services, Personnel Management, and Training and Development.

The State Board of Food and Agriculture is an advisory body which consists of the Executive Officer, Executive Secretary, and fifteen members who voluntarily represent different localities of the state. The State Board inquires into the needs of the agricultural industry and the functions of the Department. It confers with and advises the Governor and the director as to how the Department can best serve the agricultural industry and the consumers of agricultural products. In addition, it may make investigations, conduct hearings, and prosecute actions concerning all matters and subjects under the jurisdiction of the Department.

At the local level, county agricultural commissioners are in charge of county departments of agriculture. County agricultural commissioners cooperate in the study and control of pests that may exist in their county. They provide public

information concerning the work of the county department and the resources of their county, and make reports as to condition, acreage, production and value of the agricultural products in their county.

MAJOR PROJECTS:

Fees for Control and Eradication of Pink Bollworm. On April 10, CDFA proposed to amend section 3600(b), Title 3 of the CCR, pertaining to fees for control and eradication of the pink bollworm, a cotton pest. [11:1 CRLR 111] The proposed amendment was originally promulgated as an emergency action effective August 16, 1991. This administrative action will have the effect of making permanent and continuing the \$2.50-per-bale fee that was in effect for the 1991 cotton season. The fee pays the \$6 million costs of relocating the Pink Bollworm Sterile Moth Rearing Facility. The pink bollworm control program uses sterile moths to overflood wild populations of native pink bollworms. The native moths are so outnumbered by sterile moths that when mating occurs the probability is high that native moths will mate with sterile moths. Therefore, few fertile eggs are produced that could develop into larvae—larvae are the destructive life stage. Severe crop damage occurs when larvae feed within the bolls, moving from one seed to another and eating out the kernel of each. This causes a loss of seed viability and a reduction in the volume and quality of oil. When larvae feed within the bolls, they cut and stain the fibers, resulting in a low grade lint. In fields heavily infested by the pink bollworm, boll damage may be so severe that the cotton may not be worth harvesting. The biological control program not only minimizes damage to California's \$992 million cotton crop; it eliminates the need for millions of pounds of additional pesticides that would be introduced into the environment on an annual basis to maintain control of the pink bollworm.

CDFA did not schedule a public hearing on this proposed regulatory action, but accepted written comments until May 26.

Nonapproved Colored Cotton Ginning and Nonapproved Colored Cottonseed Delinting. On April 10, CDFA proposed changes in Title 3 of the California Code of Regulations to protect the planting and growing of cotton in California by restricting in certain areas the ginning and delinting of cotton to maintain seed purity and cotton fiber quality. These changes are proposed because during the 1991 San Joaquin Valley cotton harvest, three incidents of brown cotton growing in Acala cotton were discovered by cotton



growers. An investigation determined that the contamination apparently occurred during the delinting process.

The proposed adoption of section 3823.21 would prohibit ginning of nonapproved colored cotton in the San Joaquin Valley Quality Cotton District except at a gin dedicated to nonapproved cotton ginning. The proposed adoption of section 3826.1 would prohibit delinting of nonapproved colored cotton in the San Joaquin Valley Quality Cotton District except at a facility dedicated to nonapproved cottonseed delinting. The proposed regulations are necessary to prevent the contamination of approved Acala and Pima cotton by colored cotton and to protect the San Joaquin Valley's commercial cotton production by maintaining seed purity and cotton fiber quality.

In response to a written request, CDFA scheduled a May 27 public hearing on this proposed regulatory action.

Repeal of White Garden Snail Interior Quarantine. On April 24, CDFA published notice of its proposal to repeal sections 3426 and 3592, Title 3 of the CCR, which would remove restrictions regulating movement of hosts and possible carriers of white garden snails from portions of San Diego County, and remove authority for the state to conduct eradication activities against the snail in that county. Due to budget restrictions, the CDFA Director has determined that it is no longer possible to continue the white garden snail eradication program. He reasoned that because it is not feasible to eradicate the pest, it is no longer appropriate to burden those businesses and individuals within the quarantine area by maintaining restrictions on hosts and possible carriers for the pest. CDFA plans no public hearing on this proposed action; the comment period was scheduled to end on June 8.

Western Celery Mosaic Regulations. On April 10, CDFA published notice of its proposed amendment to subsections 3610(b) and (c), Title 3 of the CCR, to expand celery mosaic District 2, currently the northern portion of Monterey County, to include the southern portion as well, reflecting the expansion of production into southern Monterey County. In order to protect the celery industry and provide an equitable situation where all celery growers in Monterey County are required to discontinue their crop for the same period, CDFA proposes to amend section 3610(b). The proposed amendment of section 3610(c) would reduce the host-free period for District 1, which consists of portions of San Luis Obispo County, to the period of January 1 through January 31,

replacing the current period of January 1 through February 14. This amendment came at the recommendation of the Agricultural Commissioner of San Luis Obispo County in order to reduce the burden on celery growers in the district. No hearing is scheduled on these proposed amendments unless requested, and the comment period was scheduled to end on May 26.

CDFA Revises Standards for Plums and Fresh Prunes. On February 14, CDFA noticed proposed amendments to sections 1462.6, 1462.12, and 1462.20, Title 3 of the CCR, and its proposed repeal of sections 1462.7, 1462.8, and 1462.18 in order to simplify the standards pertaining to plums and fresh prunes, make the standards easier to apply, and reduce enforcement time in the case of nonconforming lots.

The amendments to section 1462.6 establish a tolerance for specified fruit damaged by hail where such damage is restricted to 3/8 inch in depth and 3/4 inch aggregate area without regard to fruit size. Under previous sections 1462.7 and 1462.8, to establish a tolerance for fruit damaged by hail, an enforcing officer had to determine the minimum diameter of each affected fruit in order to decide if damage exceeded the depth or aggregate area permitted. A determination that the previous regulations were complex and required an inordinate amount of inspection time to apply led CDFA to propose the repeal of sections 1462.7 and 1462.8, and the amendment of section 1462.6 to include the simplified tolerance determination.

The maximum tolerance permitted of individual containers is now 17.5% (7.5% for any one cause plus 10% under the additional tolerance). Containers of fruit permitted this additional tolerance are required to be conspicuously marked "hail marked."

The amendments to section 1462.12 replace the existing numerical size designations and sampling procedures for plums and fresh prunes. In April 1991, the U.S. Secretary of Agriculture rescinded the federal marketing order in existence since 1938 which had required mandatory inspection and compliance with federal grade requirements. At that point, shippers were in a position to ship plums as much as one full size smaller than what had been the standard for many years. CDFA recognized there would be a strong financial incentive to capitalize on this opportunity since market price increases with fruit size and estimated that increased annual costs to buyers of smaller size plums could have been more than \$25 million. The amend-

ments to section 1462.12 establish a maximum number of fruit allowed in an eight-pound sample for specific varieties, replacing the current minimum fruit diameter specifications, and return sampling procedures and size designations to those that previously existed under the federal marketing order. The repeal of section 1462.18 and amendments to 1462.20 were necessary for consistency with this purpose.

The Office of Administrative Law (OAL) approved these changes on April 23.

Mexican Fruit Fly Interior Quarantine Adopted Permanently. On January 31, CDFA noticed its intent to permanently adopt section 3417, Title 3 of the CCR, pertaining to the Mexican fruit fly quarantine; this section has existed as an emergency regulation since November 1991. Section 3417 establishes a quarantine area for the Mexican fruit fly of approximately 60 square miles in the Maywood area of Los Angeles County. The effect of this adoption is to provide authority for the state to regulate movement of hosts and possible carriers of Mexican fruit fly within and from the area under quarantine to prevent artificial spread of the fly to noninfested areas. OAL approved this action on April 29.

On April 17, CDFA noticed a proposed permanent amendment to section 3417(b), which would add 40 square miles surrounding the Downey area of Los Angeles County to the quarantine area. This amendment currently awaits OAL review and approval.

The Mexican fruit fly is an insect pest which attacks the fruit of various plants, including most citrus, apples, peaches, and pears; if allowed to spread, they would cause California's agricultural industry to suffer losses due to the decreased production of marketable fruit and loss of markets in other states and countries.

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

—San Joaquin Valley Quality Cotton District. On February 18, CDFA submitted its regulatory amendments pertaining to the San Joaquin Valley Quality Cotton District to OAL. These amendments permit increased growing of nonapproved cotton varieties to encourage research in cotton quality improvements. [12:1 CRLR 136] OAL approved the action on March 11.

—Oriental Fruit Fly Quarantine. On February 20, OAL approved CDFA's per-



manent adoption of sections 3423(b) and 3591.2(a), Title 3 of the CCR, which had previously been adopted as emergency regulations. These sections establish an approximate 152-square-mile area of Los Angeles, Riverside, and San Bernardino counties as a quarantine area for Oriental fruit flies, and establish San Bernardino County as an eradication area for the fly. [12:1 CRLR 136-37]

-Mediterranean Fruit Fly Quarantine. On February 5, CDFA filed with OAL amendments to section 3406(b), Title 3 of the CCR, which establish an additional quarantine area for Mediterranean fruit flies of approximately 46 square miles surrounding the Hancock Park area of Los Angeles County. OAL approved the action on March 12. [12:1 CRLR 137]

-Minimum Maturity Standard for Granny Smith Apples. On May 8, OAL approved CDFA's adoption of section 1400.9.1 and amendments to section 1400.11, Title 3 of the CCR, which establish minimum standards for picking Granny Smith apples, and restrict the dates when such apples may be picked. [11:4 CRLR 151]

LEGISLATION:

AB 2430 (Bronzan), as amended April 9, would repeal existing law which required the CDFA Director, by March 1, 1990, to establish an analytical methods advisory committee to make recommendations on how the state can improve its existing pesticide residue analytical methods and review recent scientific advancements concerning new and revised analytical methods for testing produce and processed foods for the presence of pesticide residues. Instead, this bill would require the CDFA Director to maintain a program to develop new methods and modify existing methods for testing produce for the presence of pesticide residues. [S. AWR]

AB 2483 (Bentley). Under existing law, CDFA is required to establish specifications for various automotive products, including antifreeze and coolant; existing law also specifies the manner in which those products must be labeled. As amended March 19, this bill would prohibit those products from containing suspended matter or sediment; provide that alcohol-based coolants and antifreeze are not suitable for use in automotive engines and prohibit their sale and distribution; and change the labeling requirements for engine coolants, antifreeze, prediluted engine coolants, and prediluted antifreeze. [S. B&P]

AB 2510 (Kelley), as amended May 5, would extend until January 1, 1996, exist-

ing law which authorizes counties to charge an annual device registration fee, with prescribed limits, to recover the costs of the county sealer of inspecting or testing weighing and measuring devices pursuant to designated provisions. [A. Floor]

AB 2749 (Cannella). Existing law governing the California Winegrape Growers Commission provides that any producer who meets certain requirements may apply to the CDFA Director prior to the formation of the Commission, or apply to the Commission after its formation, for, and if found eligible, shall receive an exemption from or a refund of the assessment levied pursuant to the provisions governing the Commission. As amended March 31, this bill would make the right to receive the exemption from the assessment, or the refund of the assessment, subject to the discretion of the Commission. [S. AWR]

AB 2785 (Areias). Existing law establishes the Feed Inspection Advisory Board in CDFA and generally provides that it shall serve in an advisory capacity to the CDFA Director with respect to the operation of the law governing commercial feed. As amended April 7, this bill would instead establish the Board in state government, permit the Board to designate one or more other entities to administer all or part of the law governing commercial feed, and require the CDFA Director to adopt regulations and procedures to be used by the entity or entities.

Existing law requires a person to obtain a license from the CDFA Director to operate a plant to manufacture or distribute commercial feed; existing law imposes various penalties for violating those provisions. This bill would authorize the Director, in lieu of those penalties, to levy a civil penalty against a person who violates those provisions, in an amount not to exceed \$500 for each violation. [A. Floor]

AB 3005 (Costa), as introduced February 19, would require the CDFA Director to appoint a committee to provide recommendations and advice on all matters pertaining to the Mexican fruit fly, including pest infestation and eradication. This bill would specify the membership of the committee and the term of office of the members. [S. AWR]

AB 3048 (Harvey), as amended April 21, would impose an annual assessment of 1% on citrus fruit trees produced and sold within the state, or shipped from the state until January 1, 1996. The funds from the assessment would be used to carry out certain programs of CDFA and the University of California concerning these trees. [S. AWR]

The following is a status update on

ills reported in detail in CRLR Vol. 12, No. 1 (Winter 1992) at page 138:

AB 884 (Areias), as amended May 5, would require the CDFA Director to create an industry-funded standardization program, and require the Director to adopt regulations he/she determines are reasonably necessary to carry out the program. The bill would permit producers of commodities to file a petition requesting that a commodity be excluded from the application of the bill. This bill has passed both the Assembly and Senate, and is awaiting Assembly concurrence in Senate amendments.

AB 936 (Areias), as amended January 21, would require CDFA to establish a demonstration project in Sacramento County and in Santa Clara County when CDFA finds it economically feasible to do so. The project would provide for the issuance of nutrition coupons for use by recipients to purchase fresh agricultural products from certified farmers' markets. [S. AWR]

The following bills died in committee: **AB 2165 (Floyd)**, which would have required any person engaged in business in this state as a game fowl breeder, as defined, to register with the CDFA Director and pay an annual registration fee; **AB 1213 (Jones)**, which would have required the CDFA Director to commence a statewide survey of food consumption among children, taking into account variations in consumption based on age, ethnic origin, socioeconomic, and geographic location; **SB 536 (Alquist)** and **SB 535 (Alquist)**, which would have appropriated an additional \$2,000,000 to CDFA to augment its plant pest disease prevention program; and **AB 104 (Tanner)**, which would have prohibited the CDFA Director, on and after July 1, 1992, from using specified pesticides and economic poisons in an aerial application in an urban area unless the Department of Health Services first finds that the use of the material in the manner proposed by the Director will not result in a significant risk to the public health, and a scientific review panel established by this bill determines that the health risk assessment has been carried out in a scientifically acceptable manner.

LITIGATION:

Macias v. State of California, No. BC024501, in which a 15-year-old boy claims he became permanently blind from direct exposure to CDFA's aerial malathion spraying, is still pending in Los Angeles Superior Court. [12:1 CRLR 138; 11:3 CRLR 150] On May 5, in a partial ruling, Judge John Zebrowski dismissed all claims against the defendant private



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malathion manufacturers, holding that a malathion manufacturer has no duty to warn people who might be harmed of possible risks of the malathion spraying, even if the manufacturer is aware the pesticide is being used without proper warnings from the state.

On June 12, Judge Zebrowski was scheduled to hear oral argument on demurrers filed by the State of California, the County of Los Angeles, and one helicopter company involved in aerial malathion spraying.

FUTURE MEETINGS:

The State Board of Food and Agriculture usually meets on the first Thursday of each month in Sacramento.

AIR RESOURCES BOARD

Executive Officer: James D. Boyd
Chair: Jana Sharpless
(916) 322-2990

Pursuant to Health and Safety Code section 39003 *et seq.*, the Air Resources Board (ARB) is charged with coordinating efforts to attain and maintain ambient air quality standards, to conduct research into the causes of and solutions to air pollution, and to systematically attack the serious problem caused by motor vehicle emissions, which are the major source of air pollution in many areas of the state. ARB is empowered to adopt regulations to implement its enabling legislation; these regulations are codified in Titles 13, 17, and 26 of the California Code of Regulations (CCR).

ARB regulates both vehicular and stationary pollution sources. The California Clean Air Act requires attainment of state ambient air quality standards by the earliest practicable date. ARB is required to adopt the most effective emission controls possible for motor vehicles, fuels, consumer products, and a range of mobile sources.

Primary responsibility for controlling emissions from stationary sources rests with local air pollution control districts (APCDs) and air quality management districts (AQMDs). ARB develops rules and regulations to assist the districts and oversees their enforcement activities, while providing technical and financial assistance.

Board members have experience in chemistry, meteorology, physics, law, administration, engineering, and related scientific fields. ARB's staff numbers over 400 and is divided into seven divisions: Administrative Services, Compliance, Monitoring and Laboratory, Mobile Source, Research, Stationary Source, and Technical Support.

In late January, Governor Wilson appointed Petaluma Mayor Patricia Hilligoss, 67, to ARB. Hilligoss is a member of the Bay Area Air Quality Management Board, and serves on the Association of Bay Area Governments.

MAJOR PROJECTS:

Consumer Product Regulations—Phase II. At its January 9 meeting, ARB adopted amendments to sections 94503.5,

94506, 94507–94513, and 94515, Title 17 of the CCR, to reduce volatile organic compound (VOC) emissions from consumer products. [12:1 CRLR 142] The amendments establish limits on VOC content for ten product categories: aerosol cooking sprays, automotive brake cleaners, carburetor-choke cleaners, charcoal lighter material, dusting aids, fabric protectants, household adhesives, insecticides, laundry starch products, and personal fragrance products. The standards for seven of the ten categories become effective on January 1, 1995. The effective date of the standard for charcoal lighter fluid is January 1, 1993; for insecticides, January 1, 1996; and for automotive brake cleaners, January 1, 1997. ARB will allow manufacturers a one-year grace period to bring their products into compliance.

About half of the 2,600 products affected already meet the new rules, but state officials said it will cost manufacturers somewhere between \$13–\$205 million per year to change those that do not comply. Although the regulations cover perfumes and colognes, those marketed in California before January 1994 will be exempted under a "grandparent clause." No other product category will be exempted. In some cases, product makers will simply replace aerosol cans with pump spray containers to meet the new regulations. But other manufacturers will have to reformulate their products, according to Board staff.

"All of these products have two things in common," said ARB official Jerry Martin. "Either they use a hydrocarbon propellant, which is essentially the same hydrocarbon that is exhausted from cars, or they use base products such as alcohol in their chemical formula, which can evaporate and also cause ozone problems." Ozone, which accounts for 95% of smog, is a health-threatening air pollutant that can lead to respiratory distress and illness.

ARB estimates that 200 tons of VOCs (*i.e.*, hydrocarbons) are emitted from consumer products in California per day. Emissions of VOCs from the ten product categories covered by the proposed amendments are estimated to be 24 tons per day. The potential emission reductions associated with the implementation of the proposed regulations are estimated to be eight tons per day by 1998. William Be-