



prior to 1979 to provide employees with a summary of asbestos-related inspections already required by law. This bill would also require the existing asbestos survey and monitoring data required by law to be available to employees within the building or another building which is also owned by the owner. This bill is pending in the Assembly Labor and Employment Committee.

The following is a status update on bills reported in detail in CRLR Vol. 9, No. 1 (Spring 1989) at pages 80-81:

AB 138 (Floyd), *AB 147 (Floyd)*, and *AB 148 (Floyd)* are pending in the Assembly Committee on Labor and Education.

LITIGATION:

At this writing, *Ixta, et al. v. Rinaldi*, No. C002805 (Third District Court of Appeal), remains pending before the California Supreme Court. (See CRLR Vol. 9, No. 1 (Winter 1989) p. 81; Vol. 8, No. 4 (Fall 1988) p. 92; Vol. 8, No. 3 (Summer 1988) pp. 98-99; and Vol. 8, No. 1 (Winter 1988) p. 85 for background information.)

RECENT MEETINGS:

At its January 19 meeting in Los Angeles, OSB granted permanent variances from section 3000(c)(13), Title 8 (Elevator Safety Orders) to the following entities: State Center Community College District, The Sports Club/Irvine, Antelope Valley Union High School District, and the City of Los Angeles Department of Water and Power; and Western Metal Decorating Company from section 475(b), Title 8 (Unfired Pressure Vessel Safety Orders).

At its February 23 meeting in San Francisco, OSB granted permanent variances to the following entities: Nobis Care Homes and Greater Faith Missionary Baptist Church from section 3000(d)(11), Title 8 (Elevator Safety Orders); State Water Resources Control Board from section 5144(h), Title 8 (General Industry Safety Orders); Allington Industries from section 462(m), Title 8 (Unfired Pressure Vessel Safety Orders); Sorenson Engineering, Inc. from section 462(m)(3), Title 8 (Unfired Pressure Vessel Safety Orders); and University of Southern California, Fritz Burns Foundation, The Voit Companies, Valtrans, and Red Bluff Union High School District from section 3000(c)(13), Title 8 (Elevator Safety Orders).

FUTURE MEETINGS:

June 22 in San Francisco.



DEPARTMENT OF FOOD AND AGRICULTURE

DEPARTMENT OF FOOD AND AGRICULTURE

Director: Jack Parnell
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The Department of Food and Agriculture (CDFA) promotes and protects California's agriculture and executes the provisions of the Agriculture Code which provide for the Department's organization, authorize it to expend available monies and prescribe 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.

The Department works to improve the quality of the environment and farm community through regulation and control of pesticides and 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.

The Department 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 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 seven 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 Pest Management—Regulates the registration, sale and use of pesticides and works with growers, the University of California, county agricultural commissioners, state, federal and local departments of health, the United States Environmental Protection Agency and the pesticide industry;

6. Division of Measurement Standards—Oversees and coordinates the accuracy of weighing and measuring goods and services; and

7. 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 consists of the Executive Officer, Executive Secretary, and fifteen members including the Board President 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 Depart-



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ment 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.

On February 24, Governor Deukmejian reappointed the following individuals for another term on the State Board of Food and Agriculture: Richard C. Keehn of Hopland; Thomas F. DiMare of Modesto; and William F. Borrer of Gerber.

MAJOR PROJECTS:

Revised Atrazine Regulations Approved by OAL. In late December, the Office of Administrative Law (OAL) approved revised atrazine use regulations, which became effective on January 4, 1989. The regulations had previously been rejected by OAL for noncompliance with the Administrative Procedure Act. (See CRLR Vol. 9, No. 1 (Winter 1989) p. 82 for background information.)

The addition of sections 6416, 6486, 6570, 6572, 6800, 6802, 6804, and 6806, and amendments to sections 6400, 6412, and 6568, Title 3 of the California Code of Regulations (CCR), implement the Pesticide Contamination Prevention Act of 1985 by creating a Groundwater Protection List of chemicals with the potential to pollute groundwater; defining and delineating Pesticide Management Zones (PMZs) (geographical areas sensitive to groundwater pollution); and prescribing regulations to control the sale and use of those chemicals. The only chemical listed in the OAL-approved regulations is atrazine.

Several minor changes were made in the atrazine regulations before they were resubmitted to OAL. A copy of the Groundwater Protection List Use Form was added to section 6806. Any person who uses atrazine is required by the regulation to complete the form and send it to the County Agricultural Commissioner every month. CDFA also amended section 6416 to include a requirement that a Groundwater Protection Training Program administered by the CDFA be

scheduled every year.

Other Groundwater Protection Regulations Proposed. After OAL approved CDFA's revised atrazine regulations, CDFA published its proposal to adopt and amend other regulations in Title 3 of the CCR implementing the Pesticide Contamination Prevention Act of 1985. The proposed new and amended sections would add simazine, bromacil, diuron, and prometon to the section 6800(a) Groundwater Protection List and would variously restrict their uses in certain PMZs.

Section 6802 would be amended to add 41 new PMZs, describe their locations, and specify the chemicals to be regulated within them. Section 6806 would be clarified to stipulate that all uses of any chemical listed in section 6800 be reported. Section 6486 would be amended to include the restriction and/or prohibition of use of all chemicals listed in the Groundwater Protection List in certain PMZs. Section 6417 would be added to allow the use of the chemicals listed in the Groundwater Protection List in their specified PMZs for research and experimental uses.

Section 6557 would be added to require licensed pest control advisers to include information in groundwater protection advisories regarding factors which affect the movement of chemicals through soil to groundwater. Groundwater protection advisories are written for the use of each chemical in the Groundwater Protection List.

Public hearings regarding the proposed regulatory changes were scheduled for March 22 in Fresno, March 23 in El Monte, and April 4 in Sacramento.

In a related development, CDFA has begun the process of penalizing chemical companies which have failed to comply with the Pesticide Contamination Prevention Act's requirement to submit information related to the potential impact of their pesticide products on groundwater. The Act requires companies that have registered agricultural use pesticides in California to submit data on the physical and chemical characteristics of their products—information which will be used to try to predict which chemicals are likely to leach into groundwater.

Firms that did not submit required data by August 1, 1988 face fines of \$500 per day. CDFA has begun the process of assessing fines against the registrants of 23 pesticides with data gaps in any of six categories. Companies that fail to pay fines within sixty days face suspension of their product's registration.

CDFA Proposes MSR Regulation Modification. In response to comments received from the regulated community, CDFA is proposing to modify the amended regulation governing application of oxydemeton-methyl (MSR). MSR, which is used to control pests that attack vegetable, fruit, field crops, and ornamental trees, has been found to cause reproductive problems in laboratory rats. The proposed modification revises section 6482(b), Title 3 of the CCR, to allow application of the pesticide only by a licensed pest control operator business or a qualified applicator licensee. Farmers in geographically remote areas may apply for an exemption so long as specific conditions are met.

Section 6482 has been in effect since 1986 but had a sunset date of December 31, 1988. Last year, CDFA proposed to amend the regulation to eliminate the sunset date, which was accomplished through emergency rulemaking on December 7, 1988.

The fifteen-day comment period regarding the proposed modifications to section 6482(b) ended on February 21. At this writing, CDFA is preparing the rulemaking file for submission to OAL.

OAL Action on Proposed Regulations. On January 18, OAL approved the repeal of sections 6160, 6227, and 6228, and amendments to sections 6110, 6151, 6159, 6180, 6220, 6221, and 6224, Title 3 of the CCR, to delete all references to an obsolete protocol manual for pesticide registration and evaluation. The manual was first developed by CDFA in 1979 for use by registrants of pesticides in California. By 1980, the manual was determined to be invalid unless revised and adopted pursuant to the APA. The manual was never revised or adopted, and in fact was never used in California, in part because the U.S. Environmental Protection Agency (EPA) developed an extensive document in 1982 for the same purpose. California incorporates the EPA guidelines.

On January 23, OAL disapproved the Department's emergency regulatory action that would have amended section 6473, Titles 3 and 26 of the CCR, to significantly change the restrictions on the use of Bromoxynil. The proposed change would have expanded the application of the restrictions from employees only to persons other than employees, including the farmer him/herself. OAL disapproved the action because the Department's finding of emergency did not include a description of the specific facts demonstrating the need for immediate action.



CDFA Reports on Pesticide Residue in Well Water. CDFA recently released a report summarizing the results of pesticide residue tests submitted to CDFA in 1987 and 1988 by county, state, and federal agencies. Nearly 3,000 wells were tested. Overall, the tests targeted a total of 179 pesticide active ingredients but detected only ten different chemicals.

According to the report, pesticide residues were found in 115 wells in 14 counties in California. Of those 115 wells, 109 were positive for pesticides no longer registered for use in California. DBCP, the most commonly detected pesticide and cancelled for use in California in 1977, was found in 102 wells. Its presence in the well water reflects the fact that it does not break down quickly in groundwater. Two other detected chemicals—DDE and DDT—are also no longer registered for use.

The report was prepared under the provisions of the Pesticide Contamination Prevention Act of 1985. Under this law, CDFA maintains a statewide database of wells sampled for pesticide active ingredients.

The data in the report are limited because well sampling for pesticides has not occurred uniformly throughout the state. Not all pesticides used in any one county are sampled for, nor are all pesticides sampled for in every county where they are used. The data only indicate which pesticides have been detected in California wells among those pesticides analyzed for, but not among all pesticides used statewide.

Proposed Permit Reform Act Regulations. Proposed section 300, Title 3 of the CCR, would establish required time frames for CDFA to process applications for permits, licenses, certificates, and registrations. The proposed regulation would also set deadlines for each application process by which CDFA must notify the applicant whether the application is complete or what additional information is needed, and a deadline by which a decision must be made on a completed application. Proposed section 301 would establish a procedure under which an applicant may appeal to the Director if CDFA does not adhere to the required time frames in processing an application. CDFA accepted comments on these proposed regulations, which implement the Permit Reform Act of 1982, until February 13.

Production Down for California's 1988 Agriculture. In February, CDFA announced that 1988 crop production totalled 52.5 million tons, 4% below the 1987 total of 54.7 million tons. Gross

cash receipts from marketing of crops and livestock are expected to be a record \$16.1 billion, up 4% from 1987. This increase is due to high prices for livestock and crops such as wheat, feed grains, and hay; U.S. production was reduced as a result of the 1988 drought in the Midwest/Great Plains heartland.

FIFRA Amendments. On October 15, 1988, then-President Reagan signed into law amendments to the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) which took effect on December 25, 1988. The amendments give the administrator of the EPA increased authority to cancel the registration of a pesticide if new data show it to cause unreasonable adverse effects on the environment or human health. The amendments also change the indemnification provisions of FIFRA to ease budgetary costs to the EPA of cancelling a pesticide, and expand the EPA's authority to regulate the storage, transportation, and disposal of suspended or cancelled pesticides, and enforce violations of these regulations.

State to Determine Extent of Illegal Drug Use in Animals. CDFA's Feed, Fertilizer and Livestock Drugs Branch and the state Board of Examiners in Veterinary Medicine have been awarded a contract by the U.S. Food and Drug Administration to determine whether illegal distribution and/or use of livestock drugs is occurring in California. The two programs, cooperating with other responsible state agencies, will develop and implement a program to ensure the proper distribution, sale, and use of livestock drugs. The Branch will survey dairies, calf buyers, feed lots, poultry operations, feed manufacturers, and retail livestock drug outlets to evaluate livestock drug use and distribution.

Computerized Trade Information Available. In conjunction with its program to promote the sale of California agriculture internationally, a new computer program which allows agricultural exporters immediate access to a network of worldwide trade leads began on February 1 through the Department's Export Program and the California Agricultural Technology Institute at Fresno. (See CRLR Vol. 9, No. 1 (Winter 1989) p. 83 for details.) This centralized system will promptly notify interested California exporters of inquiries for agricultural products electronically. Program participants have access to information on overseas market developments, current economic conditions affecting agriculture, and recent export promotion activities. The trade leads originate from several sources,

including the U.S. Department of Agriculture's Foreign Agriculture Service. The service is available at no cost to individuals or companies.

LEGISLATION:

AB 417 (Connelly) would increase the assessment ("mill tax") required to be paid by each pesticide registrant from 8 mills (\$0.008) to 11 mills (\$0.011) per dollar of sales, and would require that the funds be used by CDFA and the Department of Health Services to administer and enforce specific testing requirements relating to registration of pesticide products. The bill also includes the proposed Food Safety and Pesticide Enforcement Act of 1990 (the "Act"), requiring pesticide manufacturers to develop "practical analytical methods" for detecting residues on food of pesticides identified as causing cancer or other chronic health effects, and mandating that the state use these methods in a food sampling program to test raw produce and processed foods for pesticide residues.

AB 417—identical to *AB 4097 (Connelly)*, which died at the end of last term in the Assembly Agriculture Committee—passed the Assembly Committee on Environmental Safety and Toxic Materials and is pending in the Assembly Agriculture Committee. (For background information, see CRLR Vol. 8, No. 4 (Fall 1988) p. 97 and Vol. 8, No. 1 (Winter 1988) p. 88.)

According to Jennifer Boursier of CDFA's Pest Management Division, although CDFA has not taken a formal position on the bill, it has the same concerns it had with the bill last term. First, many pesticides included under the Act are not used on food and therefore their monitoring requirements under the Act are allegedly wasteful and unnecessary. Second, CDFA argues that it already tests for significant pesticides in its routine pesticide residue monitoring program. Finally, the required criteria for analytical methods under the Act (sensitivity at 1/100th of the tolerance level, test completion within eight hours, and ability for test to be conducted on existing state laboratory equipment at a comparable average cost) are beyond the limits of existing technology for many pesticides included under the Act.

AB 63 (Waters) would amend the requirements of sections 32915 and 61378 of the Food and Agricultural Code regarding sweeteners added to milk products. The section currently requires the words "artificially sweetened" to be part of the name of any milk product which has been sweetened by a nonnutritive or



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artificial sweetener. AB 63 would amend the section to except specified sweeteners from that labeling requirement. This bill would also authorize sweeteners approved by U.S. Food and Drug Administration to be added to milk products, and would prescribe labeling requirements. At this writing, this bill is pending in the Assembly Ways and Means Committee.

AB 311 (*Felando*) would require every food facility which sells any meat, poultry, vegetable, or fruit to conspicuously post signs identifying food additives in the food for sale. The signs regarding meat, poultry, and commercially grown fish must identify any additives which have been fed to, ingested by, consumed by, or applied to the animals while they were alive or during processing. For caught fish, the signs need only identify those additives which were added to the fish during processing. The additives to be identified include but are not limited to steroids, hormones, and antibiotic drugs. This bill is pending in the Assembly Health Committee.

AB 222 (*Waters*) and SB 8 (*Nielsen*) would repeal the termination date for the Foreign Market Development Export Incentive Program, which was begun in 1985. The program is set to end on January 1, 1990. AB 222 is pending in the Assembly Economic Development and New Technologies Committee; SB 8 is pending in the Senate Appropriations Committee.

AB 489 (*Waters*), as amended April 5, would make it unlawful for any livestock owner or agent to knowingly sell or dispose of any livestock or livestock carcasses which have drug residues in excess of allowable federal or state tolerances. The bill would impose a maximum \$100 penalty for each tainted head of livestock carcass sold or disposed of and make the violator liable to the buyer for the purchase price. In addition, the violator would be liable for attorneys' fees and administrative costs of enforcement. This bill is pending in the Assembly Agriculture Committee at this writing.

AB 563 (*Hannigan*), as amended April 6, would require CDFA to develop and establish a program, by July 1, 1990, for the collection of banned agricultural waste from eligible participants, as defined. CDFA would be required to adopt regulations to implement the program, which would be required to include specified elements, including the implementation of the program by counties at the discretion of a county, and the imposition of fees by the county to cover the costs of implementing the pro-

gram. This bill is pending in the Assembly Committee on Environmental Safety and Toxic Materials.

AB 618 (*Speier, et al.*), as amended April 10, would make the distribution of packaged food, as defined, on or after January 1, 1990, that does not carry a label specifying its fat and cholesterol content a misdemeanor. According to AB 618, "packaged food" means "any food displayed for sale at retail in a package, and includes items such as poultry, meat, fish, and seafood which are weighed and then packaged at the point of sale and further includes eggs in cartons." This bill is pending in the Assembly Health Committee.

RECENT MEETINGS:

At its January meeting, the Board voted to endorse the ongoing San Joaquin Valleywide Air Pollution Study. Its primary objectives are to ensure that future emissions controls will be effective in achieving improved air quality in the Valley, including attainment of relevant standards; that sound regional long-term plans for successful control are developed; and that a plan for equitable distribution of controls is developed. The Board is interested in the effects of pollution on public health and crop damage/losses.

John Ross and Myron Openshaw of the Cattlemen's Association reported that the European Economic Community (EEC) has objected to the use of growth hormones, especially estrogen, in U.S. beef. Ross contended that the EEC is

actually not objecting to the hormones—which he stated have no health effects whatsoever—but rather to U.S. efforts to equalize trade by reducing or eliminating internal subsidies. Board President Richard Peters commented that if the United States accedes to EEC's demands and only exports beef that has not been implanted with growth hormones, this county would be indirectly admitting that the hormones are a problem.

Director Jack Parnell reported that the state's budget is in serious trouble. Deputy Director Bob Fox reported that the Department of Finance has asked CDFA to take another 1% reduction in the 1989 budget year, which amount to approximately \$800,000. This may result in cuts to some Department programs that historically have not been touched.

At the Board's January and February meetings, CDFA Special Assistant Wayne Smith updated the Board on the *Vision: California 2010* Supplemental Report. (See CRLR Vol. 9, No. 1 (Winter 1989) p. 84 and Vol. 8, No. 4 (Fall 1988) p. 97 for background information.) Mr. Smith is in the process of soliciting and reviewing "white papers" on each of the proposed menu topics. Initial versions of the white papers are due on July 1; final versions are due on October 1; and the supplemental report must be submitted to the Governor by January 1, 1990.

FUTURE MEETINGS:

- August 3 in Sacramento.
- September 7 in Sacramento.
- October 5 in Sacramento.



RESOURCES AGENCY

AIR RESOURCES BOARD

Executive Officer: James D. Boyd
Chairperson: Jananne Sharpless
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The California legislature created the Air Resources Board in 1967 to control air pollutant emissions and improve air quality throughout the state. The Board evolved from the merger of two former agencies, the Bureau of Air Sanitation within the Department of Health and the Motor Vehicle Pollution Control Board. The members of the Board have experience in chemistry, meteorology,

physics, law, administration, engineering and related scientific fields.

The Board regulates both vehicular and stationary pollution sources. The primary responsibility for controlling emissions from nonvehicular sources rests with local air pollution control districts (California Health and Safety Code sections 39002 and 40000).

The Board develops rules and regulations for stationary sources to assist local air pollution control districts in their efforts to achieve and maintain air quality standards. The Board oversees their enforcement activities and provides