



LLRW facility by both DHS and CIWMB. Wilson argued that, while the bill exempts hazardous waste facilities from dual regulation for nonhazardous waste that is incidental to the burial of hazardous waste, it does not exempt DHS-licensed LLRW facilities from CIWMB regulation for the same incidental wastes. The Governor contended that state law already affords for the regulation of LLRW and LLRW disposal facilities; Wilson opined that "the dual regulation required by this bill is unnecessary. Moreover, this bill will add yet another governmental hurdle to the opening of this much needed site. Without the facility, LLRW is being stored at urban locations throughout the state due to the lack of access to out-of-state disposal facilities imposed by federal law." Wilson concluded that, "[i]n view of the serious situation in which the State finds itself as the result of the lack of LLRW disposal access, I cannot approve legislation which could lead to further delay in the opening of the licensed California LLRW disposal facility." [12:4 CRLR 11-12; 12:2&3 CRLR 13-14; 12:1 CRLR 12]

SB 799 (Presley), as amended August 9, is no longer relevant to CIWMB.

The following bills died in committee: **AB 3796 (Horcher)**, which would have required CIWMB's market development plan to stimulate market demand for post-consumer and secondary waste materials to include promotion of the availability of public information on the use of post-consumer and secondary waste materials; **AB 3116 (Solis)**, which would have required CIWMB to develop and implement a program to provide economic incentives to businesses which purchase recycled materials or reduce the amount of solid waste they generate; **SB 2062 (Thompson)**, which would have—among other things—extended the availability of a credit for purchasing machinery or equipment to manufacture recycled products; **SB 1577 (Thompson)**, which would have—among other things—defined the term "composting" and excluded from that definition the production of compost from agricultural waste, feedstock, manure, vegetation, or yard waste which was generated on agricultural land, if the compost is returned to agricultural land for agricultural purposes, and is not sold commercially; **AB 173 (V. Brown)**, which would have limited the salaries paid to the chair and each member of CIWMB; **SB 1089 (Killea)**, which would have transferred the Division of Recycling and its functions from the Department of Conservation to CIWMB; **SB 1090 (Killea)**, which would have excluded compost that meets state and federal product quality standards from the definition of "solid

waste"; and **SB 1132 (Leslie)**, which would have revised existing law which requires each SRR element to include an implementation schedule that shows how the local agency will meet AB 939's waste diversion requirements.

RECENT MEETINGS

At the Board's July 27-28 and August 31 meetings, CIWMB Chair Jesse Huff commented that California is on course to meet AB 939's required 25% waste stream reduction from landfills by 1995. Latest preliminary estimates by CIWMB suggest that at the end of 1993, the diversion rate was an estimated 20%, compared to a diversion rate of 14% of the 45 million tons of garbage created by Californians in 1990. The statewide projection is based on a comparison of solid waste tonnage disposed in landfills in 1990, with subsequent tonnage in 1991, 1992, 1993, adjusted to remove the effects of inflation, population, and economic changes. However, the statewide diversion rate projection is not necessarily based on individual county and regional diversion rates. Further, Huff cautioned that although the projections indicate CIWMB waste reduction laws are working, CIWMB still has a lot of work ahead to ensure that these projections become a reality.

FUTURE MEETINGS

September 22 in Stockton.
October 26-27 in San Jose.
November 15 in Sacramento.
December 14 in Sacramento.
January 25, 1995 in Sacramento.
February 22-23, 1995 in Palm Springs.
March 29, 1995 in Sacramento.
April 26-27, 1995 in San Diego.
May 24-25, 1995 in Bakersfield.

DEPARTMENT OF PESTICIDE REGULATION

Director: James Wells
(916) 445-4000

The California Department of Food and Agriculture's Division of Pest Management officially became the Department of Pesticide Regulation (DPR) within the California Environmental Protection Agency (Cal-EPA) on July 17, 1991. DPR's enabling statute appears at Food and Agricultural Code (FAC) section 11401 *et seq.*; its regulations are codified in Titles 3 and 26 of the California Code of Regulations (CCR).

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

DPR includes the following branches:

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

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

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

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

5. The Pesticide Use and Enforcement Branch enforces state and federal laws and regulations pertaining to the proper and safe use of pesticides. It oversees the licensing and certification of dealers and pest control operators and applicators. It is responsible for conducting pesticide incident investigations, administering the



state pesticide residue monitoring program, monitoring pesticide product quality, and coordinating pesticide use reporting.

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

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

MAJOR PROJECTS

DPR Releases Annual Report on Groundwater Monitoring for Pesticides. On August 17, DPR released its 1993 report on the results of groundwater monitoring for pesticides, which summarizes groundwater monitoring in 46 surveys submitted to DPR between July 1, 1992 and June 30, 1993; the monitoring was done by various government agencies between 1985 and 1993. [13:2&3 CRLR 171] In total, samples were taken from 2,324 wells in 46 of California's 58 counties; pesticides residues were detected and verified in 80 wells in 17 counties. Of the 80 wells, 50 were public drinking water wells, 19 were private drinking water wells, and 11 were agricultural or industrial (non-drinking water) wells. According to DPR, verified detections of the following ten different compounds were made: bentazon, bromacil, diuron, prometon, simazine, and atrazine (all herbicides), xylene (a solvent used in some pesticide formulations and industrial chemical products), TPA (a breakdown product of the pesticide Dacthal), deethyl-atrazine, and deisopropyl-atrazine. After a detection is verified, DPR's investigation focuses on whether the pesticide reached groundwater because of routine agricultural use or for some other reason, such as a pesticide spill into a well.

DPR Releases Annual Pesticide Ill-

ness Surveillance Program Summary Report for 1991. [13:2&3 CRLR 170] The report states that in 1991, 1,804 illnesses with a potential or confirmed link to pesticide use in agricultural and non-agricultural settings were reported; another 435 illnesses were confirmed from a pesticide spill that occurred when a train derailed on July 14, 1991, north of Dunsmuir. [11:4 CRLR 164] Of the 1,804 illnesses, 835 people suffered eye or skin irritations; the remaining 969 had other symptoms, such as nausea or headaches. In 1,675 of the 1,804 cases, the people were exposed to the pesticide while at work; the report also opines that illnesses that occur outside the working environment are probably underreported since the reporting system relies heavily on reports from physicians, which are usually made when a worker is treated under workers' compensation procedures.

The DPR report also indicates that there were two deaths in 1991 related to pesticide exposure; both victims entered locked buildings where signs had been posted warning that the structure was being fumigated with methyl bromide. DPR will use the information gathered in the illness investigations to determine if changes are warranted in worker protections, label directions, or work practices to avoid overexposure to pesticides.

DPR Releases Semiannual Reevaluation Report. On September 16, pursuant to section 6225, Title 3 of the CCR, DPR released its semiannual report summarizing its reevaluation of the registration status of pesticide products; the report covers reevaluations occurring from January 1 through June 30, 1994. [14:2&3 CRLR 168-69] California regulations require DPR to investigate all reports of actual or potential significant adverse effects to people or the environment resulting from the use of pesticides; if an adverse impact has occurred or is likely to occur, the regulations require DPR to reevaluate the registration of the pesticide. Factors that may initiate reevaluation are specified in the regulations and include public or worker health hazard; environmental contamination; residue overtolerances; fish or wildlife hazard; lack of efficacy; hazardous packaging; inadequate labeling; and availability of an effective and feasible alternative material or procedure which is demonstrably less destructive to the environment. Reevaluation is often triggered by ongoing DPR registration reviews, state and county pesticide use surveillance and illness investigations, pesticide residue sample analyses, environmental monitoring activities, or information from other state or federal agencies.

When a pesticide enters the reevaluation process, existing data are reviewed; further additional data that may be required to determine the nature and extent of the potential hazard or the appropriate mitigation measure are identified and requested from the registrants. There are several possible outcomes of a reevaluation. For example, the data may demonstrate that the issue is resolved and that no significant adverse effects will occur; DPR may determine that there is a need to adopt a regulation restricting the use of the pesticide in some manner to mitigate the potential adverse effect; or the reevaluation may indicate that there is an adverse effect which cannot be mitigated, in which case the reevaluation may end with a recommendation that the registration of the pesticide be canceled.

The September 16 semiannual report focuses on ingredients which are undergoing formal evaluations, which are ordered when an investigation indicates that a significant adverse impact has occurred or is likely to occur. The pesticides undergoing formal reevaluations are carbaryl, used in 61 products; chlorpyrifos, diazinon, ethyl parathion, and methidathion for use on almonds, used in 66 products; chlorthal-dimethyl (Dacthal), used in 20 products; endosulfan (Thiodan), used in 15 products; ethylene oxide, used in three products; glutaraldehyde, used in 77 products; liquid nitrogen, used in one product; metam sodium, used in 19 products; methyl parathion for use on rice, used in five products; pine oil, used in 44 products; products containing potassium orthobenzyl parachlorophenolate, potassium para-tertiary-amyphenolate, sodium dodecyl benzene sulfonate, and/or potassium orthophenylphenolate claiming to be effective as a tuberculocide, used in seven products; propetamphos (Safrotin), used in four products; propoxur (Baygon), dichlorvos, and chlorpyrifos (Dursban), used in 251 products; pyrethrins and methylene chloride, used in 12 products; S,S,S-tributylphosphorotrithioate (DEF and Folex), used in two products; thiophanate-methyl, used in 12 products; tributyltins, used in 27 products; and ziram, used in 13 products.

Clean Air Act Activities. The federal Clean Air Act requires each state to develop a state implementation plan (SIP) for attaining and maintaining air quality standards for air pollutants such as ozone. The Air Resources Board (ARB) has identified pesticide application as a source of volatile organic compounds (VOC) in many California air basins; VOCs are precursors to tropospheric ozone formation which is harmful to both human health and



vegetation. Because the state of California has failed to develop an acceptable SIP for three major air basins (the South Coast Air Quality Management District and the Ventura and Sacramento areas), a federal court has ordered the U.S. Environmental Protection Agency (EPA) to prepare and impose on California a federal implementation plan (FIP). As a result, ARB is hard at work attempting to develop an adequate SIP by November 15, to preclude imposition of the FIP (*see* agency report on ARB for related discussion).

For its part in this process, DPR has begun to draft a plan for reducing agricultural and commercial structural pesticide sources of VOCs. [14:2&3 CRLR 172] In June, DPR asked the manufacturers of 1,434 liquid pesticide products to provide data on the potential of their products to emit certain compounds that contribute to ozone production; DPR also sent letters to 299 pesticide registrants, notifying them that all agricultural and commercial structural use liquid pesticide formulations had been placed into the reevaluation process. [14:2&3 CRLR 169] At this writing, companies have until October 15 to submit the requested data, or their products will be automatically assumed to have high VOC emissions.

As currently drafted, DPR's plan is designed to reduce VOC emissions from agricultural and commercial structural pesticide applications by 20% from the 1990 baseline emission inventory by 2005. The plan includes developing VOC content data for each formulated pesticide, establishing target VOC reduction levels and dates, and identifying voluntary and mandatory measures to reduce VOCs. At this writing, DPR is scheduled to hold workshops on September 26 in Fresno, September 29 in Ventura, and October 6 in Sacramento to receive input on its draft plan.

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

• **Prioritization and Status of Active Ingredients for Risk Characterization.** Among other things, the Birth Defect Prevention Act requires DPR to review the toxicology data for all currently-registered active ingredients, and to identify those which should undergo the "risk characterization process." Based upon its review of the health effects studies of all registered active ingredients, DPR on September 16 released its prioritized list of 154 active ingredients which have potential adverse health effects in studies of sufficient quality to permit risk character-

ization; these ingredients—62 of which were ranked as high-priority—will enter the risk characterization process. This process will identify the seriousness of the adverse effect, determine the expected levels of human exposure, assess the resulting risk to human health and, if necessary, explore possible mitigation measures.

The results of this risk characterization process will determine if any registration action is warranted; a registration action is not the automatic result for every active ingredient entering the risk characterization process. As data gaps are filled, additional adverse effects may be identified, necessitating another risk characterization. According to DPR, the risk characterization process is a comprehensive evaluation requiring, in some cases, a considerable amount of time; therefore, it is not possible for DPR to predict how long it will take to systematically complete the risk characterization process for each priority category. The active ingredients have been prioritized into the categories of high, moderate, and low priority; the prioritization of the active ingredients is a subjective process based upon, among other things, the nature of potential adverse effects, number of potential adverse effects, number of species affected, the no observable effect level, potential human exposure, use patterns, quantity used, and EPA evaluations and actions.

• **DPR Director Exempts Two Rotenone Products from Data Requirements.** On June 3, DPR Director Jim Wells exempted two pesticide products containing the active ingredient rotenone from the mandatory health effects data requirements of the Birth Defect Prevention Act. Under the authority provided in FAC section 13127(e)(1), the Director exempted Noxfish Fish Toxicant Liquid and Nusyn-Noxfish Fish Toxicant Synergized Rotenone Liquid on grounds that the two products have limited use, there is insignificant exposure to workers and the public, and the products are otherwise in compliance with federal law.

DPR Supports Mevinphos Cancellation. On June 30, DPR announced the proposed cancellation of the pesticide mevinphos; under the terms of the proposed cancellation agreement between EPA and Amvac Chemical Corporation, the pesticide's manufacturer, mevinphos use will be allowed only through February 1995 to use up existing stocks. Until February 1995, DPR will impose strict restrictions on the use of the chemical in California. According to DPR Director Wells, DPR and EPA "concluded that even when properly used, mevinphos is detrimental

to the public health and safety of agricultural workers, and its registration should be cancelled." The pesticide is used to control aphids, leaf miners, mites, grasshoppers, caterpillars, and many other insects; it can be used on 48 food and non-food crops in California.

Effective June 30, county agricultural commissioners cancelled existing mevinphos permits for some uses and placed additional restrictions on others. Permits were cancelled for mevinphos use in greenhouses and on tree crops and grapes; these crops involve particularly high contact by workers with mevinphos-treated foliage. For other crops, the commissioners placed new conditions on existing permits to mandate certain precautionary use practices until February 28, 1995, when use will end. These conditions include the following: applications may be made only by a licensed pest control business; aerial applications are prohibited within a half-mile of field workers; the use of hand-held application equipment and air-blast sprayers is prohibited; tank mixes combining mevinphos with other cholinesterase-inhibiting pesticides are prohibited; persons using mevinphos will be required to participate in a medical monitoring program; and the only applications allowed are those between two and fourteen days before harvest.

DPR Proposes New Restricted Materials. On July 5, DPR adopted emergency amendments to section 6400, Titles 3 and 26 of the CCR, to add metam sodium and methyl isothiocyanate (MITC) to its current list of restricted materials; on September 9, DPR published notice of its intent to adopt these changes on a permanent basis. According to DPR, placing metam sodium and MITC on the restricted materials list will require users to obtain a permit from the county agricultural commissioner; this process would allow 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. At this writing, DPR is accepting public comments on this proposal until October 24; no public hearing is scheduled.

DPR Proposes TAC Amendment. On May 20, DPR published notice of its intent to amend sections 6890 and 6860, Title 3 of the CCR, regarding toxic air contaminants (TACs). Existing law requires DPR to evaluate the health effects of pesticides which are or may be emitted into ambient air and which pose a present or potential threat to public health; following this evaluation, pesticides which meet specified



criteria are listed as TACs. However, FAC section 14021 also provides that pesticides which have been identified as hazardous air pollutants pursuant to 42 U.S.C. section 7412 must be identified by the DPR Director as TACs; DPR's proposed action would list as TACs pesticides which are so identified as hazardous air pollutants. The proposed changes would also create two subdivisions in the current list of TACs found in section 6860; proposed section 6860(a) would list materials which have undergone a health effects evaluation and meet the specified criteria, and proposed section 6860(b) would contain a list of materials which are federal hazardous air pollutants and are found in pesticides registered for use in California.

The public comment period on this proposed action ended on July 8; at this writing, the changes await review and approval by the Office of Administrative Law (OAL).

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

• **Interim Registration of Economic Poisons Rulemaking.** Existing law requires—with specified exceptions—that every manufacturer of, importer of, or dealer in any economic poison obtain a certificate of registration from DPR before the economic poison is offered for sale in California. AB 771 (Areias) (Chapter 963, Statutes of 1993) established a process whereby applicants for registration of a pesticide product may apply for a certificate of interim registration where specified data requirements are not yet met. [13:4 CRLR 161] In order to obtain a certificate of interim registration, the applicant must submit all of the data that are required to support federal and California registration of the pesticide product, except data for which deferral is being requested. In addition, the applicant must demonstrate that the pesticide can be used safely and will significantly enhance a pest management system. AB 771 also requires DPR to impose a fee to cover DPR's cost of reviewing and processing applications for these certificates. On January 26, DPR adopted section 6168, Title 3 of the CCR, on an emergency basis; section 6168 establishes a \$5,000 fee to cover DPR's costs of reviewing and processing each application for a certificate of interim registration. The \$5,000 fee must be submitted in addition to the \$200 application fee required pursuant to FAC section 12812. On February 4, DPR published notice of its intent to permanently adopt section 6168; although no hearing was scheduled, DPR took public com-

ments on the proposal until April 4. [14:2&3 CRLR 170] Over the summer, DPR adopted the proposed language; on August 24, OAL approved DPR's permanent adoption of section 6168.

• **Economic Poison Rulemaking.** In August 1993, DPR published notice of its intent to amend section 6000 and adopt new section 6145, Titles 3 and 26 of the CCR, pertaining to economic poisons. Proposed amendments to section 6000 would provide that the term "economic poison," as used in FAC section 12995, includes any substance or product that the user intends to be used for the economic poison purposes specified in FAC sections 12753 and 12758; proposed section 6145 would define the term "intended to be used," as used in FAC sections 12753 and 12758. [14:1 CRLR 133; 13:4 CRLR 159] During the summer, DPR adopted the proposed changes; at this writing, OAL is reviewing the rulemaking file.

Pest Management Activity. On June 9, DPR and the California Department of Food and Agriculture (CDFA) jointly sponsored a Workshop on Soil Amendments with Pest Suppressing Properties; the agencies held the workshop to further their efforts to identify potential regulatory obstacles to the adoption of environmentally sound pest management practices. Workshop participants noted that some soil amendments that are registered as fertilizers in California have additional effects as pest suppressants; however, manufacturers cannot advertise these suppressive effects because to do so would constitute pesticidal claims, making the products subject to the laws governing pesticides. Workshop participants discussed what changes to federal and state laws, regulations, and policies are needed to reduce the risk of adverse effects of pesticides by encouraging the use of soil amendments with pest-suppressive properties. At this writing, DPR and CDFA are reviewing the comments made at the workshop, and are expected to develop recommendations for federal statutory and regulatory changes and submit them to EPA for review.

In other pest management-related activity, on August 30 DPR announced the recipients of the first five Integrated Pest Management (IPM) Innovator awards; IPM is an approach to pest control that stresses the application of biological, mechanical, and cultural pest control techniques. In IPM practices, pesticides are used only when necessary to achieve acceptable levels of control with the least possible harm to nontarget organisms and the environment. DPR Director Jim Wells presented the awards to the following five

California groups which have developed distinguished model IPM systems: Lodi-Woodbridge Winegrape Commission, Randall Island Regional Management Pilot Project, California Processed Tomato Foundation, Fillmore Citrus Protective District, and Biologically Integrated Orchard Systems Project.

LEGISLATION

AB 3383 (Bornstein) requests the Regents of the University of California to establish a pilot program to provide extension services, training, and financial incentives for farmers who voluntarily participate in pilot projects to reduce their use of chemicals for agricultural production; prohibits the commencement of any new pilot demonstration project on or after December 31, 2001; and appropriates \$250,000 from the Food Safety Account in the Department of Pesticide Regulation Fund to DPR for the purposes of the bill. This bill was signed by the Governor on September 28 (Chapter 1059, Statutes of 1994).

SB 1752 (McCorquodale). Existing provisions of the Governor's Reorganization Plan No. 1 of 1991 created DPR and transferred the pesticide regulatory program to DPR from CDFA. [11:4 CRLR 163-64; 11:3 CRLR 145] This bill finally makes conforming changes in the statutory provisions that set forth the respective duties of DPR and CDFA. The bill also requires DPR to determine, by April 30, 1995, those applicants for licenses as processors of farm products or produce dealers who should not be assessed the food safety surcharge due to the limited applicability of specified sections of the Food and Agricultural Code and the Health and Safety Code.

Existing law establishes a Pest Management Research Committee to award competitive grants to conduct pest management research projects; the Committee consists of ten persons. This bill increases the membership of the Committee to twelve persons, by providing for an additional member who represents DPR and an additional member who represents the Department of Health Services. The bill also requires the DPR Director to establish a Pest Management Advisory Committee with specified duties. This bill was signed by the Governor on September 11 (Chapter 545, Statutes of 1994).

The following is a status update on bills reported in detail in CRLR Vol. 14, Nos. 2 & 3 (Spring/Summer 1994) at pages 170-71:

AB 2800 (Harvey), as amended March 16, permits an economic poison registrant, at any time, to request that the registration of any of its economic poisons



be voluntarily cancelled. The bill permits any economic poison for which the registration is cancelled to be sold and possessed as if the product's registration was not renewed. This bill was signed by the Governor on September 6 (Chapter 426, Statutes of 1994).

SB 106 (McCorquodale). Under existing law, officials of specified recreation and park districts are exempt from having to obtain an agricultural pest control adviser license from DPR in order to act, or offer to act, as an agricultural pest control adviser if they make a recommendation in writing as to a specific application of pesticide on a specific parcel. As amended June 21, 1993, this bill continues that exemption until July 1, 1995. This bill also permits the DPR Director to adopt alternative minimum criteria based on education or technical expertise for applicants for an agricultural pest control adviser license who are officials of those recreation and park districts. This bill was signed by the Governor on July 15 (Chapter 216, Statutes of 1994).

The following bills died in committee: **AB 2888 (Bornstein)**, a controversial bill which would have permitted the DPR Director to give priority to the processing of applications for registration if he/she establishes criteria for considering priority processing of those applications, and permitted DPR to adopt a review process for registering economic poisons that is in conformity with the process for registering pesticides administered by EPA; **AB 2532 (Areias)**, which would have required the DPR Director to give priority in the processing of applications for registration to economic poisons that are alternative to economic poisons for which registration has been cancelled or suspended or that have been withdrawn from the market and for which there are no other currently registered chemical or nonchemical alternative economic poisons; **SB 1502 (Alquist)**, which would have exempted from specified provisions of law regarding pesticides and worker safety any disinfectant, sanitizer, or sterilant registered in this state as an economic poison, but would have placed disinfectants, sanitizers, or sterilants registered in this state as economic poisons on a list of hazardous substances established by the Director of Industrial Relations; **AB 2724 (Rainey)**, which would have required the Director—upon the application of a registrant of a specified laundry bleach which is a combination detergent/disinfectant—until January 1, 1998, to determine whether the mill assessment shall be only on the economic poison (disinfectant) use of that combination product; **SB 475 (Petris)**, which would have

enacted the Pesticide Use Reduction Act of 1993, requiring the Cal-EPA Secretary to develop and implement a program to achieve a significant reduction in the use of the active ingredients in pesticides in California by 2000; and **AB 773 (Areias)**, which would have required the DPR Director to develop a program for certifying the competency of pest control advisers in biologically intensive integrated pest management, as defined, on a voluntary basis.

■ LITIGATION

On June 21, the California Supreme Court agreed to review the Second District Court of Appeal's decision in *Macias v. State of California, et al.*, 28 Cal. App. 4th 127 (Mar. 4, 1994). In its ruling, the Second District reversed the trial court's summary judgment in favor of American Cyanamid Company, the manufacturer of the malathion used in CDFA's controversial aerial malathion spraying program to eradicate the Mediterranean fruit fly and the Mexican fruit fly. [14:2&3 CRLR 172; 12:2&3 CRLR 196-97; 11:3 CRLR 150] Plaintiffs are the parents of a 14-year-old boy who was blinded by the pesticide while trying to cover the family car as a helicopter spraying malathion passed over his house; they allege that CDFA's warnings to the public were misleading and deceptive, that the manufacturer knew of the inadequacy of the information being disseminated by CDFA created an independent legal duty in the manufacturer to adequately warn downstream users or bystanders who would come into contact with the product. The appellate court found several factual issues which preclude summary judgment, such as whether the manufacturer had actual knowledge of the information which CDFA was disseminating to the public about the effects of malathion; whether CDFA's warnings were adequate; and whether the manufacturer's reliance on CDFA to disseminate information to adequately warn citizens was reasonable in light of factual allegations of misrepresentations made by CDFA.

Pesticide Watch v. California Department of Food and Agriculture, No. 961050, is still pending in San Francisco Superior Court; plaintiffs Pesticide Watch, Action Now, and Safe Alternatives for Fruitfly Eradication are challenging the approval of an environmental impact report (EIR) which enables the state to commence aerial spraying of malathion in southern California. Plaintiffs are asking that the court void the EIR's certification and require the state to a prepare new EIR; plaintiffs also seek the release of all environmental and health studies performed

by the state on Medfly spraying projects. The named defendants in the action are CDFA, DPR, Cal-EPA, the Department of Health Services, Governor Wilson, and OEHHA.

In January, San Francisco Superior Court Judge Stuart Pollak denied plaintiffs' request for a preliminary injunction in *Natural Resources Defense Council, et al. v. Wilson, et al.*, No. SCV-957488. The case, which was filed on December 28, 1993 by NRDC, AFL-CIO, California Rural Legal Assistance, and the Environmental Defense Fund, was an attempt to invalidate Cal-EPA's revision of the Proposition 65 listing of methyl bromide, one of the world's most widely used pesticides. Because EPA listed methyl bromide as a substance which must be labelled or identified as causing cancer or reproductive toxicity, the state listed methyl bromide under Proposition 65 on January 1, 1993, thereby triggering a one-year period after which manufacturers and users of methyl bromide must provide a clear and reasonable warning to individuals who will be exposed to the substance. In December 1993, however, Cal-EPA's Office of Environmental Health Hazard Assessment (OEHHA) limited the Proposition 65 listing of methyl bromide to structural uses, contending that EPA's listing of the substance was similarly limited and that the state need not go further than the federal government. Had Cal-EPA not revised the listing, agricultural growers who use methyl bromide—and agricultural use accounts for 95% of the 19 million pounds of methyl bromide used in California annually—would have been required to provide the warning. The Wilson administration took the action after heavy lobbying by growers and the chemical industry. [14:1 CRLR 134]

Plaintiffs unsuccessfully argued that the requirements of Proposition 65—a state initiative passed by the voters in 1986—differ from and are not limited by federal standards, and that all uses of methyl bromide are properly listed under Proposition 65 based on its toxicity level. Environmentalists are fearful that Judge Pollak's ruling could lead to the delisting or restricted listing of numerous of toxics and the evicision of Proposition 65's warning requirement. [14:2&3 CRLR 171-72] In late May, however, plaintiffs decided to forego further challenge to the state's action; no further litigation is expected at this writing.

■ RECENT MEETINGS

At PAC's May 20 meeting, the Committee discussed pesticide use in schools. Among other things, PAC reviewed EPA's



booklet entitled *Pest Control in the School Environment: Adopting Integrated Pest Management*, which provides an introduction to IPM as it might be adopted for the school environment, including both structural and landscape areas. Tim Tidwell of DPR's Environmental Monitoring and Pest Management Branch reported on a survey of school districts which DPR recently completed to ascertain what types of pest management practices are being used in the schools; the goals of the survey were to obtain an overview of current IPM practices in the school districts, determine what obstacles prevent school districts from implementing IPM practices, and develop strategies to promote and encourage IPM. Tidwell reported that DPR sent surveys to over 1,000 school districts; 55% of the districts responded. Staff is currently reviewing those responses, and expects to complete a final report in the fall.

■ FUTURE MEETINGS

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

WATER RESOURCES CONTROL BOARD

Executive Director: Walt Pettit
Chair: John Caffrey
(916) 657-0941

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

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

ing the water resources of its respective region. Most regional board action is subject to State Board review or approval.

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

WRCB also administers California's water rights laws through licensing appropriate 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.

On July 1, the state Senate confirmed Mary Jane Forster's appointment as a WRCB member; Forster previously served for ten years on the San Diego Regional Water Quality Control Board.

■ MAJOR PROJECTS

WRCB, EPA Enter Into a "Framework Agreement" on Bay/Delta Protection. On June 20, WRCB and the U.S. Environmental Protection Agency (EPA) signed a 13-page framework agreement calling for the development of Bay/Delta protections acceptable to both the state and federal governments. The agreement emphasizes the following three areas where federal-state cooperation with respect to the Bay/Delta Estuary is crucial: (1) the formulation of water quality standards; (2) coordination of federal and state project operations with regulatory requirements, including the federal Central Valley Project (CVP) and the State Water Project (SWP); and (3) joint development of long-term solutions to the water quality and declining fish population problems in the Bay/Delta, because "neither the federal nor the state government, acting alone, can accomplish this task."

The agreement is a welcome step in a long-running battle between Governor Wilson and EPA. Since 1987, WRCB has been engaged in a marathon proceeding to adopt adequate water quality standards for the San Francisco/Sacramento-San Joaquin Delta Estuary, but Wilson abruptly halted the proceeding in April 1993 after

the U.S. Fish and Wildlife Service (USFWS) listed the Delta smelt as threatened under the federal Endangered Species Act, thus requiring all government agencies and private parties to consult with USFWS before taking any action which might affect the species' survival. [13:2&3 CRLR 177] With no state or federal standards in place, several environmental groups sued EPA to compel it to draft federal standards for the Bay/Delta; to settle the lawsuit, EPA agreed to and did propose water quality standards in December 1993 which protect declining wildlife in the Bay/Delta by increasing the amount of fresh water retained in the Delta, thus decreasing the amount available to farms and cities. [14:1 CRLR 135; 13:4 CRLR 163] Governor Wilson criticized EPA's standards, claiming that the proposal is too costly in terms of both water and jobs for the state, and characterizing the problem as a "water supply and facilities operations problem the solution to which Congress has reserved to the states" and over which EPA lacks jurisdiction under the federal Clean Water Act (CWA). The state and federal governments finally came to a truce in March 1994: WRCB agreed to develop a permanent water quality control plan for the Bay/Delta by December 15, and EPA agreed to hold off on imposing its standards until that date, to give WRCB one last chance to come up with adequate standards. [14:2&3 CRLR 173-74]

Specifically, the June 20 agreement sets forth the following program for establishing water quality standards for the Bay/Delta Estuary:

- EPA has already received public comment on its draft water quality standards for the Bay/Delta and will take final action on the standards by December 15. However, upon its approval of WRCB-submitted standards which meet EPA requirements on estuarine habitat and other fish and wildlife uses of the Bay/Delta Estuary, EPA will initiate the necessary rulemaking action consistent with the CWA to withdraw the federal standards.

- Gathering public input from workshops which began in April and—at this writing—are expected to continue through October, WRCB will update and revise its water quality control plan for the Bay/Delta to meet CWA requirements. The workshops will solicit comments and recommendations from interested parties on the level of protection which should be provided and on available alternatives which afford that level of protection.

- WRCB will incorporate the results of this process into a draft water quality control plan, which will be released by De-