



requirements for nationally recognized testing laboratories. Finally, OSB amended section 8603 of the Title 8 Telecommunication Safety Orders to conform with federal regulation 20 C.F.R. Part 1910.268(c), to provide

more specific recordkeeping requirements regarding training of telecommunications workers.

FUTURE MEETINGS:
To be announced.



DEPARTMENT OF FOOD AND AGRICULTURE

DEPARTMENT OF FOOD AND AGRICULTURE

Director: Henry Voss
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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 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.

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 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 U.S. Environmental Protection Agency (EPA) 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 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:

CDFA Declares War on Medfly. Following the discovery of a Mediterranean fruit fly (medfly) in Los Angeles County on July 20, 1989, CDFA commenced an aerial attack against the pest by spraying a 156-square-mile section of Los Angeles with the pesticide malathion. In addition to spraying, CDFA has ordered produce quarantines, attempted to trap the pests, released sterile flies to prevent breeding, ordered the clearing of fruit from trees, and directed the application of malathion directly on soil where infested fruit was found. At this writing, the Department's efforts have not been successful; flies have been trapped in Santa Clara County, San Bernardino County, and in widely scattered locations in Los Angeles and Orange counties. Between December 5 and 14, several additional localities were found to be infested, bringing the total area to 277 square miles. Malathion spraying, which was originally confined to Los Angeles, has been expanded to approximately 50 cities; some have been



sprayed as many as four times, according to CDFA spokespersons.

At stake is California's \$16-billion-per-year agricultural industry. According to CDFA, the medfly is a destructive insect pest which attacks the fruit of various plants, including over 150 crops such as citrus, tomatoes, grapes, avocados, peaches, and cherries. If the fly were allowed to spread and become established in host fruit production areas, California's agricultural industry would suffer losses due to decreased production of marketable fruit, increased pesticide use, and loss of markets if other state or countries enacted quarantines against California products.

However, that does not appease disgruntled residents subjected to malathion. Many southern Californians have complained of illness, rashes, and property damage (including the marring of car finishes) due to the spraying.

CDFA Takes No Action Against Zolone Research Misconduct. In August 1988, CDFA approved the protocol of a research study of illnesses related to the use of the pesticide phosalone (commercially known as Zolone). The use of Zolone on grapes and other fruits was discontinued in 1988, because 80 farm workers fell ill after picking fruit in fields where it had been sprayed in 1987.

CDFA permitted the manufacturer of Zolone, Rhone-Poulenc Ag Company, to conduct the controversial study, which involved the use of paid college students assigned to harvest Zolone-treated grapes for a six-day period. At the time of the study, CDFA came under heavy criticism for approving the use of human subjects without clearing the testing procedures with the Department of Health Services (DHS). CDFA responded by stating that two physicians from Duke University had approved the protocol; further, its Worker Health and Safety Branch was in daily communication with the Study Director (a contract employee of Rhone-Poulenc), and daily blood samples of the students were taken in order to detect illness. (See CRLR Vol. 8, No. 4 (Fall 1988) p. 94 for extensive background information.)

However, CDFA recently revealed that the original protocol of the study, which had been reviewed and approved by the Department, had been breached by Rhone-Poulenc, causing the harvesters to be exposed to higher levels of Zolone than was initially agreed upon. During the course of the study, three amendments were made to the original

protocol: (1) the correction of a typographical error regarding the amount of Zolone to be used; (2) an increase in the number of acres to be treated; and (3) a change in the conditions under which the harvesters would be removed from the study. Only the first two amendments were clearly communicated to CDFA. According to a recent memo by CDFA Associate Director Rex Magee, CDFA had knowledge that a third amendment was forthcoming, but apparently did not further inquire about it in the daily communications with Rhone-Poulenc, and was not formally notified of it until after it had been implemented. As a result of the third amendment, 19 of the 30 student harvesters showed depressed cholinesterase levels in their blood, and should have been removed from the study after three days.

Thus, CDFA launched an investigation to determine whether the researchers violated any California laws or regulations. Although CDFA concluded that Rhone-Poulenc's onsite Company Monitor and contract employee Study Director should not have amended the study protocol without authorization, and criticized them for unprofessional conduct, CDFA failed to condition its authorization to tie it to compliance with the original protocol. The Department ultimately concluded that, under its regulations existing at the time of the study, no enforcement against Rhone-Poulenc is possible.

As a result of this incident, CDFA plans to strengthen section 6710 of the CCR to require that all research studies have the prior approval of CDFA, that studies must be performed according to an approved protocol, and that failure to conform with the approved protocol will result in a violation of the Food and Agricultural Code. Section 6250 of the CCR, regarding Research Authorizations, will also be amended to clarify that any use in violation of the Research Authorization will automatically nullify the Authorization. Further, CDFA has proposed the creation of an independent Human Pesticide Exposure Review Board, in conjunction with the University of California. Protocols for scientific studies involving workers exposed to pesticides and their residues will be reviewed by CDFA, DHS, and the Review Board. This Board will have full authority to approve, require modifications in, or disapprove all scientific studies of human exposure sanctioned by CDFA.

Annual Pesticide Report. In August 1989, CDFA released the results of the 1988 residue testing programs conducted by its Division of Pest Management.

According to the Department, 78% of the samples taken in its marketplace surveillance program had no detectable residues; 21% contained residues below the tolerances established by the EPA (most of these residues were at less than half the allowable levels); and 1.16% of the samples contained residues that violated EPA-established tolerances. The percentage of residues violating EPA-established tolerances has dropped from 1.9% in 1986. The marketplace surveillance program is the largest CDFA testing program; 9,293 samples of more than 200 different commodities were taken.

Although CDFA's official report failed to disclose the number or type of pesticides tested for under the marketplace surveillance program, the Department's press release accompanying the report claims that samples are analyzed by multi-residue screens which can detect up to 118 different pesticide active ingredients. The Department's press release also quoted Pesticide Enforcement Branch Chief Doug Okumura as saying CDFA's report "is pretty good evidence to counter the hysteria perpetrated by alarmists who are unnecessarily worrying consumers about pesticide residues."

In the priority pesticide program, which focuses on pesticides of special concern and samples only produce known to have been treated with a targeted pesticide, 1,701 samples were taken. Twenty-four (24) pesticides were targeted, and 49 different commodities were sampled. Nearly 80% of the samples had no detectable residue, and there were no illegal residues.

In the preharvest program, which monitors for illegal use of pesticides during the growing season, 2,511 samples were taken and more than 80% contained no detectable residue, with less than 1% containing residues of pesticides which could not be legally used on the commodity.

In the produce destined for processing program, 997 samples of 50 different commodities were taken and more than 90% had no detectable residue.

When illegal residues are detected in any of the programs, commodities are immediately quarantined by the Department and not allowed to be sold. If the fields where the commodities are



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grown are located in California, then the fields are sampled and if illegal residues are detected, the fields are quarantined and harvest is prohibited.

Pesticide Use Reporting Regulations Approved. After conducting 61 public workshops statewide to discuss the overall concept of pesticide use reporting with growers, pest control operators, pest control advisors, and other interested and affected groups (see CRLR Vol. 9, No. 3 (Summer 1989) p. 96 for background information), CDFA has adopted numerous changes in its regulations in Titles 3 and 26 of the CCR that require reporting of agricultural pesticide use. The Department considers these regulatory changes to be more comprehensive than the analogous regulations adopted by the EPA.

Under previous law, licensed pest control applicators and dealers were required to report all pesticides used, but growers reported only the use of pesticides included on a list of restricted materials. Under the new regulations, the responsibility for reporting use of all pesticides will be shared by growers.

The Department has repealed sections 6438 (pest control records) and section 6440 (pesticide use reports), which were previously located within the article pertaining to the restricted material permit system. Section 6438 required licensed pest control businesses to prepare and maintain records pertinent to all pesticide applications (restricted and non-restricted materials). Section 6440 required private applicators (growers) to maintain records for restricted materials only. The Department moved these recordkeeping regulations to a new and expanded pesticide use record system.

The amended sections (6624, 6626, 6627, and 6628) specify who must report, the form in which the information is to be submitted, and the information required. New section 6624 (Pesticide Use Records) lists the persons and entities required to keep pesticide use records, including anyone who uses an agricultural use pesticide, a restricted pesticide, a Groundwater Protection List pesticide (section 6800(b)), or an industrial post-harvest commodity pesticide.

Included in new section 6626 (Pesticide Use Reports for Production Agriculture) are all use reporting requirements for pesticide applications for the production of an agricultural commodity (as defined in section 6000), including applications by the operator of

the property as well as agricultural pest control businesses. According to particular specification, growers would be required to report each pesticide use by the tenth of each month, while pest control businesses would be required to submit a report within seven days of completion of the pesticide application and send a copy of the report to the operator of the property within thirty days.

New section 6627 (Monthly Summary Pesticide Use Reports) requires all who must report under new section 6624 to do so by the tenth of the month on a special form provided by the Department (contained in new section 6627.1). This section also clarifies and expands the requirements for use reporting to include all restricted and non-restricted agricultural use materials.

New section 6628 (Negative Pesticide Use Reports) requires both agricultural and structural pest control businesses to file negative use reports on a monthly basis, when no work has been performed during that month.

New section 6619 has been added, to require an agricultural pest control business applying pesticides for the production of an agricultural commodity to notify the operator of the property treated, within 24 hours, that the pesticide application has been completed, and specifies the information which must be included in the notice. New sections 6622 and 6623 require the operator of the property to obtain both an annual operator identification number and site identification number prior to the purchase and use of any agricultural use pesticide.

The Department has amended section 6562 (Dealer Records), to expand the type of information which licensed pesticide dealers must maintain for two years on all pesticide sales and deliveries. Section 6568 (Dealer Responsibilities) has also been amended in several respects, so as to establish an enforcement mechanism so county agricultural commissioners can monitor pesticide sales and compare sales reports to use reports. CDFA also amended section 6000 to clarify the term "agricultural commodity."

Finally, the Department also repealed sections 6636, 6806, and 6806.1, Titles 3 and 26 of the CCR.

CDFA accepted public comment on these regulatory changes until December 2, and then submitted them to the Office of Administrative Law (OAL) for

review. OAL approved them on December 22; they became effective on January 1.

Groundwater Protection Regulation Proposed. The Pesticide Contamination Prevention Act of 1985, which added sections 13141-13152 to Division 7 of the Food and Agricultural Code, was enacted to prevent pesticide contamination of California's groundwater aquifers. (See CRLR Vol. 9, No. 4 (Fall 1989) p. 104; Vol. 9, No. 3 (Summer 1989) p. 95; and Vol. 9, No. 2 (Spring 1989) p. 94 for background information.) In order to assess the potential of a pesticide to leach into groundwater, section 13143(a) established timeframes for the submission of data on active ingredients in economic poisons registered for agricultural use, but did not establish timeframes for the submission of data on other specified ingredients and degradation products of active ingredients in economic poisons.

Proposed section 6199.75, Title 3 of the CCR, would establish a one-year timeframe for pesticide manufacturers to submit data on specified ingredients and degradation products. The CDFA Director may grant an extension of up to two years for several reasons, including: (1) the physical and chemical properties of the particular ingredient involved result in the studies taking longer than one year to complete; (2) the registrant experiences difficulties in obtaining the services of a laboratory; or (3) the registrant experiences difficulty in obtaining pure chemical for use in the study. The Director may also grant an additional extension of one year beyond the original extension and fine pesticide manufacturers if the data is not submitted by the final due date. The public comment period on this proposed regulatory change ended on November 13.

Economic Poison Assessment Increased. On October 12, OAL approved CDFA's proposed emergency amendment to section 6386, Titles 3 and 26 of the CCR, which increased the assessment of pesticide registrants on all sales of registered economic poisons for use in California. The purpose of the assessment is to administer and enforce the provisions of the Food and Agricultural Code. Part of the assessment goes to the counties as reimbursement for costs incurred in administration and enforcement of state laws and regulations. On November 9, CDFA published notice of its intent to permanently adopt this regulatory change; the public



comment period was scheduled to end on January 9.

Proposition 65 Rulemaking. The California Health and Welfare Agency (HWA), the lead agency overseeing the implementation of Proposition 65, held a public hearing on October 4 to receive testimony on the proposed repeal of section 12713(d) of its Proposition 65 regulations in Title 22 of the CCR. HWA seeks to repeal section 12713(d) as of October 1, 1990.

Proposition 65, the Safe Drinking Water and Toxics Enforcement Act of 1986, prohibits persons in the course of doing business from knowingly or intentionally exposing any individual to any chemical known to the state to cause cancer or reproductive toxicity without first giving a clear and reasonable warning. The Act also creates limited exceptions to this warning requirement when the exposure to a substance known to cause cancer poses "no significant risk assuming lifetime exposure at the level in question" for substances known to the state to cause cancer.

In 1988, HWA adopted on an interim basis several regulations to implement the "no significant risk" exemption of the Act. Regulatory section 12713 provides generally that, unless a specific "no significant risk" level is set forth in section 12705, a chemical in a food, drug, cosmetic, or medical device poses "no significant risk" if the exposure through the food, drug, cosmetic, or medical device is in compliance with all applicable state and federal safety standards. Subsection (d) of section 12713 provides that compliance with non-specific qualitative standards is sufficient to prove that an exposure to one of these products poses no significant risk.

HWA now proposes to repeal section 12713(d), which has become a "safe harbor" provision for industry. HWA is in the process of conducting risk assessments for the purpose of adopting specific permanent standards for listed chemicals, and has repeatedly encouraged industry to do the same. The Agency believes that, by October 1, interested persons will have had adequate time to develop specific standards to guide their compliance with Proposition 65. HWA has encouraged industry to determine whether their products comply with available specific standards, and to develop their own specific standards for the chemicals which may be found in their products.

On November 28, HWA held a pub-

lic hearing on several other proposed Proposition 65 regulations. The Agency proposes to add new section 12902 to Title 22 of the CCR, which would implement the provision of Proposition 65 which states that a chemical is known to the state to cause cancer or reproductive toxicity "if an agency of the state or federal government has formally required it to be labeled or identified as causing cancer or reproductive toxicity." New section 12902 would define several terms in that provision, and set forth procedures for the addition to and reconsideration of chemicals added to the Governor's list of chemicals which have been identified by a state or federal agency as causing cancer.

HWA also seeks to amend section 12703, Title 22 of the CCR. This section defines a "no significant risk" level as one which is calculated to result in one excess case of cancer in an exposed population of 100,000, assuming lifetime exposure at the level in question. However, an alternative level may be used in situations where sound considerations of public health support an alternative level, such as discharges resulting from certain clean-up operations. This proposed amendment to section 12703(b) would add two other examples of such situations: (1) where chemicals in food are produced by cooking necessary to avoid bacterial or microbial contamination; and (2) where chlorine disinfection in compliance with all applicable state and federal safety standards is necessary to comply with sanitation requirements.

In other action, the Office of Administrative Law (OAL) has recently approved several Proposition 65 regulatory changes promulgated by HWA. On October 30, OAL approved HWA's adoption of section 12306, Title 22 of the CCR, regarding the identification of chemicals known to be cancer-causing by entities recognized to be "authoritative" by the state of California. On November 20, OAL approved HWA's amendment to section 12201, which makes several definitional changes, and its adoption of section 12901, which defines the term "any detectable amount" in Proposition 65. (See CRLR Vol. 9, No. 4 (Fall 1989) for background information on these approved changes.)

Weights and Measures. On October 20, CDFA published notice of its intent to adopt, amend, and/or repeal sections 4000-4026.2 and 4082, Title 4 of the

CCR, pertaining to commercial weighing and measuring devices and to device repairers. The Department's principal task in this area is to minimize measurement error in commercial transactions by establishing and enforcing standards which can be uniformly applied in the exchange of goods and services.

CDFA's regulations are based, with some exceptions, upon the 1988 edition of the National Bureau of Standards' Handbook 44 (HB44). HB44 is the national model, revised annually, which serves as a foundation for attaining national uniformity in the design, construction, selection, and application of commercial weighing and measuring devices. CDFA proposes to adopt the 1989 edition of HB44, with some exceptions, as well as other requirements considered suitable by the Department such as amendments passed by the 1988 National Conference on Weights and Measures. The proposed regulations affect specifications, tolerances, testing procedures, and requirements for the design, construction, and usage of commercial weighing and measuring devices. Concerning device repairers, the Department proposes to repeal regulatory section 4082, which provides for the issuance of identification cards to registered repairers of commercial weighing and measuring devices, based on its finding that such cards are rarely used and that their issuance is an unnecessary drain on program resources.

The comment period on these proposed regulations expired on December 15. No public hearing is scheduled at this writing.

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

-Pesticide Worker Safety and Minimal Exposure Pesticides Regulations. CDFA recently concluded its review of all public comments on its proposed amendments to sections 6400, 6724, 6738, 6770, and 6772; the repeal of sections 6410 and 6482; and the adoption of new sections 6790-6796, Titles 3 and 26 of the CCR, regarding pesticide worker safety and minimal exposure pesticides. (See CRLR Vol. 9, No. 4 (Fall 1989) pp. 104-05 for detailed background information on these regulatory changes.) On December 13, the Department announced several modifications to its originally proposed



language, and released the modified proposals for a supplemental public comment period which ended on December 29.

-Permit Reform Act Regulations. On November 28, OAL approved CDFA's adoption of sections 300 and 301, Title 3 of the CCR, which specify processing times for 44 different CDFA licenses, permits, registrations, certificates, and renewals. (See CRLR Vol. 9, No. 4 (Fall 1989) p. 105 for background information.)

-SNV Regulations. On October 23, OAL approved the Department's amendments to section 6804, Titles 3 and 26 of the CCR, which revises the strict numerical values (SNV) for water solubility, soil adsorption, hydrolysis of pesticides, and aerobic soil metabolism, pursuant to the Pesticide Contamination Prevention Act of 1985. (See CRLR Vol. 9, No. 3 (Summer 1989) p. 96 for background information.)

-Juice Grape Regulations. On September 26, CDFA held a public hearing on a proposed amendment to section 1437.10, Title 3 of the CCR, which would prohibit the use of stick-on labels on juice grape containers to indicate varietal designation and require all variety labels to be printed or embossed on each container. At this writing, the rulemaking package on this regulatory change is still being prepared; CDFA hoped to submit the package to OAL in January.

-Emergency Methomyl Regulations. On June 29, 1989, OAL approved CDFA's emergency amendments to section 6772(a), Titles 3 and 26 of the CCR, which increase the reentry interval after methomyl field spraying from 2 days to 7 days for early season applications and to 21 days for late season applications (or 10 days if leaf samples reveal methomyl degradation to defined safe levels. (See CRLR Vol. 9, No. 3 (Summer 1989) p. 96 for background information.) The emergency regulations expired at the end of September. CDFA plans to permanently adopt the amendments, but only if new data confirms the original studies upon which the emergency regulations were based. At this writing, CDFA is conducting in-field studies to determine breakdown rates in different regions of California, and is awaiting additional information from the manufacturer of methomyl (DuPont).

-Hydrilla Eradication Area Regulations. On November 7, OAL

approved CDFA's permanent adoption of an amendment to section 3962(a), which adds Madera and Mariposa counties to the existing list of eradication areas for hydrilla, a noxious weed which clogs irrigation canals and other waterways. (See CRLR Vol. 9, No. 4 (Fall 1989) p. 105 for background information.)

Director Finds Aldicarb Not A Threat to Groundwater. On October 30, CDFA Director Henry Voss announced that since the insecticide aldicarb does not threaten to pollute the state's groundwater, its registration should not be cancelled. In so ruling, the Director rejected the findings of a subcommittee of CDFA's Pesticide Registration and Evaluation Committee, which was established by the Pesticide Contamination Prevention Act of 1985 and is made up of representatives from CDFA, the California Department of Health Services, and the state Water Resources Control Board. Under the Act, CDFA's Director may either accept or reject the findings of the subcommittee.

Although the panel found that aldicarb and its degradation products have polluted and continue to threaten to pollute the groundwaters of the state, the Director maintained that CDFA sampling of 500 wells in 27 counties, including 49 wells located in areas of heavy aldicarb use, indicate no groundwater contamination due to aldicarb.

Furthermore, the Director rejected the panel's finding that aldicarb pollutes because the panel based part of its findings on experimental uses that are not currently legal and on sampling results from Humboldt and Del Norte counties, where aldicarb has leached into groundwater in the past. The Director rejected the Humboldt and Del Norte samples, because the use of aldicarb is no longer allowed in these counties. According to Voss, groundwater contamination in these counties resulted from conditions of heavy rain and high water tables which do not occur in any other California county.

The Director also rejected the panel's finding that cancellation of aldicarb would not cause severe economic hardship on the state's agricultural industry. The director relied on information from the University of California Farm Advisors who argue that the cancellation of aldicarb would have serious economic impact, especially in certain regions where cotton and sugar beets are grown, because aldicarb is the only pesticide

effective on a new cotton disease, and aldicarb is becoming a critical replacement for other ineffective pesticides used on sugar beets.

This decision by Voss, a former president of the corporate farmers' major trade association, triggered critical news editorials and fueled a growing movement to remove pesticide regulation from CDFA and place it within the jurisdiction of DHS.

CDFA Request for Investigation of UFW Denied. On August 21, CDFA asked the U.S. Department of Justice (DOJ) to initiate an investigation into allegedly criminal activities of the United Farm Workers of America (UFW) stemming from UFW's long-standing boycott of California table grapes. CDFA claimed the potentially criminal activities by UFW in furtherance of the boycott included mail fraud, extortion, arson, and violations of antitrust laws, the Racketeer Influenced and Corrupt Organizations Act, and the Anti-Tampering Act. In addition to sending its own request for investigation, the Department formally requested Governor Deukmejian to call for an investigation of UFW activities.

On October 18, DOJ responded to the Department's allegations, concluding that the information provided by CDFA failed to support its claims. DOJ also noted that CDFA has made similar allegations in the past, and that DOJ's conclusion with respect to those allegations "has not changed." Nonetheless, at the November 2 meeting of the State Board of Food and Agriculture, CDFA Legislative Coordinator Tracy Sandin said the Department would continue to pursue its investigation of potential criminal activities by UFW.

LEGISLATION:

SB 356 (Petris). Existing law requires the CDFA Director to adopt regulations regarding pesticides and worker safety. This bill would enact the Agricultural Hazard Communication Act, requiring the Director, in cooperation with the Department of Industrial Relations, to adopt regulations setting forth an employer's duties towards its agricultural laborers, and requiring the Director to enforce these regulations. This bill would also require the Director to develop crop sheets for each labor intensive crop, as defined, which shall be printed in English and Spanish and which shall contain specified information regarding chemical and pesticide



use. SB 356 would provide that appropriate crop sheets shall be developed and distributed to health care providers and employers by no later than March 1, 1991. Finally, this bill would provide that any waiver by an employee of the benefits or requirements of the Hazardous Substances Information and Training Act is against public policy, is void, and any employer's request or requirement that an employee provide such a waiver is a violation of the act. This bill is pending in the Assembly inactive file.

The following is a status update on bills described in CRLR Vol. 9, No. 4 (Fall 1989) at pages 106-07:

SB 970 (Petris) would enact the Child Poisoning Act and would prohibit the CDFA Director from renewing the registration of a household pesticide after December 31, 1990, if there is an acute effects data gap, as defined, for the product. This bill would also require CDFA to provide to the California Toxic Information Center a listing of all ingredients in any household pesticide registered in this state. This bill is pending in the Assembly Agriculture Committee.

SB 1251 (Mello), which would require the CDFA Director to establish the Task Force on Alternatives to Agricultural Chemicals, is pending in the Assembly Agriculture Committee.

SB 952 (Petris), which would require CDFA to report pesticide active ingredient data gap and other specified information to the legislature by March 1, 1990, is pending in the Assembly Health Committee.

AB 563 (Hannigan) would require CDFA to develop and establish a program for the collection of banned or unregistered agricultural waste on or before July 1, 1990, if specified funds are made available. This bill is pending on the Senate floor.

AB 618 (Speier) would provide that any packaged food distributed on or after January 1, 1991, is misbranded unless it bears a label disclosing specified nutritional information on the fat and cholesterol content of the food. This bill is pending in the Senate Health and Human Services Committee.

AB 1681 (Burton), which would have required the Occupational Safety and Health Standards Board of the Department of Industrial Relations to adopt mandatory data requirements for quarantine periods to protect field workers from hazardous pesticide residues in

labor intensive crops, died in committee.

SB 1610 (Petris), which would have established the Sustainable Agricultural Research and Education Fund in the State Treasury, died in committee.

AB 417 (Connelly) would have, among other things, shifted the exclusive responsibility for the establishment, adoption, and revision of pesticide tolerances in raw agricultural commodities and processed foods from CDFA to DHS. This bill died in committee.

AB 311 (Felando), which would have required every food facility which sells any meat, poultry, vegetable, or fruit to post conspicuous signs identifying food additives in the food for sale, died in committee.

LITIGATION:

On May 25, 1989 in *People v. Reilly*, No. 89-0752-RAR-EM, Attorney General John Van de Kamp, the AFL-CIO, and several public interest groups sued the EPA in federal court in Sacramento, alleging that the agency has failed to enforce a provision of the federal Food, Drug, and Cosmetic Act known as the Delaney Clause, which bans the use of known carcinogens in foods. The suit seeks to outlaw the use of seven chemicals which leave concentrated residues in

processed foods and to force EPA to gather new data on all pesticides approved for use on raw foods in order to determine whether they reach unsafe concentrations in processed foods.

In its answer filed on October 31, EPA said it does not yet have complete data and is in the process of obtaining additional data and issuing tolerances where appropriate. On November 20, several growers, food processors, and chemical industry groups filed a motion to intervene as co-defendants, arguing they have a right to intervene because disposition of the action may affect the food crops, processed foods, and agricultural chemicals that they produce. Also, the industry groups state they have a strong interest in maintaining tolerances for pesticide residues and the use of the associated agricultural chemicals. The Attorney General agreed to allow the industry groups to intervene. In the near future, the Attorney General plans to file a motion for summary judgment, and expects the EPA and industry groups to file a procedural motion to dismiss.

FUTURE MEETINGS:

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



RESOURCES AGENCY

AIR RESOURCES BOARD

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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. 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