FUNDING CALIFORNIA'S PESTICIDE REGULATORY PROGRAM

A Report to the Legislature

from the California Department of Pesticide Regulation

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OVERVIEW AND RECOMMENDATIONS

LETTER FROM PAUL E. HELLIKER

DIRECTOR, DEPARTMENT OF PESTICIDE REGULATION

This report culminates a major undertaking by the Department of Pesticide Regulation (DPR) that began in 2001 at the direction of the Legislature and Governor Davis. Chapter 523 of 2001 (Assembly Bill 780, Thompson) required DPR to report to the Legislature on the appropriate, long-term funding sources and levels needed to support California's nationally known pesticide regulatory program.

AB 780 also continued DPR's mill assessment – a levy on wholesale pesticide sales – at a level initially set in 1997. That mill rate (17.5 mills, or $0.0175 per dollar of sales) deliberately underfunded DPR operations to expend a temporary fund surplus. In anticipation of a DPR funding shortfall in fiscal year 2002-03, legislators then earmarked $7 million for DPR from the General Fund. Their intent was to fully support DPR programs, pending approval of a long-term funding plan. Soon thereafter, Governor Davis was compelled to strike the appropriation and other General Fund spending to help counteract a looming state budget deficit. As a result, DPR has made more than $7 million in actual program cutbacks for fiscal year 2002-03.

One year ago, in accordance with AB 780, I convened a subcommittee of DPR's Pest Management Advisory Committee to consult with DPR on its preparation of this report. The subcommittee represented a broad range of stakeholders in agriculture, industry, and environmental advocacy, as well as the Legislature and local government. *(Members are listed on page 6.)* DPR gratefully recognizes their contributions in time and effort during numerous meetings and hours of discussion that helped to shape this document.

In substantial detail, this report provides a perspective necessary to understand DPR's long-term funding needs. The report includes a review of the history and structure of California's pesticide regulatory program. It describes DPR's roles

and responsibilities, and its working relationships with county agricultural commissioners, other state agencies, and federal pesticide regulators. The report details DPR initiatives to enhance its programs, and to make its operations more efficient and effective. Finally, the report analyzes the history, sources, and actual costs of DPR operations, and assesses DPR's future needs in light of the state budget deficit and reductions in General Fund support. *(More topics may be found in the Table of Contents and in topical summaries preceding each section and chapter.)*

While the report includes the opinions of subcommittee members on various funding options, as well as perspectives by the Legislative Analyst, the following recommendations are those of DPR. AB 780 directed DPR to respond to four specific questions. They are addressed individually, as follows:

What are the ongoing funding needs that will allow the Department to carry out its responsibilities under state statutes and regulations?

We believe that DPR's appropriate funding needs were met in fiscal year 2001-02, when our budget was $63 million. Approximately $50 million was devoted to programs administered by DPR, with an additional $13 million pass-through funding for local pesticide programs. DPR adequately performed its enforcement, licensing, and local oversight functions during fiscal year 2001-02. DPR conducted the investigations necessary to assess worker safety and illness incidents. We met our obligations for ground water contamination assessment and air toxics management, and we initiated a program to assess and eliminate surface water contamination by pesticides. DPR also found the resources to make expeditious decisions on pesticides proposed for registration in California, while implementing critical e-government projects that provided better information and services to customers.

DPR's local partners, the county agricultural commissioners, also conducted their overall regulatory programs adequately, although they relied upon other funding sources (county general funds and unclaimed fuel taxes) in addition to the General Fund and mill assessment dollars provided through DPR's budget.

Due to declining revenues in the state General Fund, and a revenue shortfall from the mill assessment, DPR's fiscal year 2002-03 budget was reduced to about $54 million. As a result, grants promoting alternative pest management strategies were eliminated; pesticide registration activities were reduced by 15 percent; risk assessment activities were cut back by one-third; food residue sampling was reduced by 35 percent, and e-government initiatives were scaled back. Monitoring of air, ground water and surface water was scaled back by 60 percent, 45 percent, and 50 percent, respectively. Where possible, DPR shifted responsibility for environmental monitoring to pesticide users or manufacturers. County pesticide regulatory program activities were not affected by DPR budget cuts, but the revenues they received from other sources declined from previous years.

During the AB 780 legislative debate, and subsequent meetings of the advisory panel, most stakeholders agreed that DPR should be funded to maintain activities comparable to those conducted in fiscal year 2001-02. After a detailed

review of DPR activities and associated costs, there was no consensus among stakeholders on specific program cuts. Environmental and public health advocates recommended increased funding to support expanded or additional activities. As the state budget crisis deepened during 2002, stakeholder meetings produced no agreement on how to address DPR's funding crisis. Given the disparate interests of DPR stakeholders, this is not surprising. In any case, AB 780 directed DPR to formulate its own recommendations after receiving input from the subcommittee.

What is the appropriate mix of general funds and special funds, including the pesticide mill assessment, to support the Department's activities?

As the chart in Chapter 9 shows (*page 54)*, General Fund support for DPR programs has fluctuated over time, driven by the mandates of new legislation and changing economic conditions. DPR's mix of General Fund monies has ranged from 24 percent (fiscal year 1996-97) to 67 percent (1987-88 and 1988-89). For fiscal year 2003-04, we propose to shift the source of DPR's funding from the General Fund to the mill assessment and other DPR fees. Due to the state's fiscal crisis, we cannot justify funding the pesticide regulatory program from the General Fund.

There is strong state and national precedent for supporting environmental regulatory activities with special fees assessed on parties whose activities require enforcement, monitoring, and remediation. For example, both the California Air Resources Board and State Water Resources Control Board impose special fees on "responsible parties" to fund regulatory activities. In addition to providing incentives for business to minimize their environmental impact, such special funding also fosters regulatory continuity and consistency.

DPR also proposes to increase fees to cover most regulatory costs of corresponding program activities. The current mill assessment cap of 17.5 mills ($0.0175) would be increased to a 27-mill cap. The actual mill rate would be set annually, based on DPR program needs, through legislative deliberations on the state Budget.

At the rate of 27 mills, DPR could fund its state operations at the current level of $41 million, plus a prudent reserve. Since state agencies are currently operating under a hiring freeze, and most have implemented program reductions, DPR expects its operating budget to fall below $41 million. On that basis, the mill rate could be set to reflect actual budget needs. For fiscal year 2003-04, DPR would require a rate of 25 mills to fund its state operations of about $39 million, as proposed in the Governor's Budget.

It is important to note how an increase in the mill would affect California's agricultural industry. A 1997 report from the University of California Environmental Health Policy Program that analyzed the mill's economic impact concluded that "any feasible rate increase is likely to have only a small impact on overall agricultural costs." The report noted that farm expenditures on pesticides (excluding application costs) range between four and five percent of total production costs. "Even if California's mill assessment rate were increased

fivefold to more than 10 percent of the cost of pesticides, total production costs would increase only several tenths of one percent," according to the UC report.

Several months ago, DPR began discussing some findings of its own in meetings with stakeholders and legislative staffers. DPR analyzed overall operating costs in 2001 for the state's agricultural industry and calculated the percentage of costs represented by the mill assessment. DPR found that the mill represented less than one-tenth of one percent (between 0.06 and 0.08 percent) of total input costs. If the current mill assessment were increased by 50 percent, it would still represent only a small fraction of one percent (between 0.09 and 0.12 percent) of total inputs.

This is not surprising, since the mill assessment represents a small fraction of overall business costs for research, development, registration, and marketing of pesticide products in California. The mill assessment's impact on the regulated community has been the subject of vigorous debate for years, but there is no substantial evidence that indicates the mill assessment represents a significant industry cost. To the contrary, DPR's investigation and some other studies indicate that the mill assessment has a negligible fiscal impact on industry and consumers.

As part of its proposal to eliminate reliance on the General Fund, DPR also seeks authority to adjust examination and licensing fees for pesticide business activities, such as pest control companies, maintenance gardeners, qualified applicators, and pest control advisers. DPR conducts about 9,000 examinations annually and issues or renews about 15,000 licenses, which are valid for two years.

Set by statute, annual fees range from $15 to $100. Most fees have not been increased since the mid 1980s. An independent business consultant retained by DPR in 2001 calculated the cost of licensing-related activities at $1.7 million against actual revenues of about $1 million. Examination fees, which range from $5 to $15, raise about $59,000 annually, versus actual costs of about $425,000. DPR has encountered significant delays in processing licensing and renewal applications due to this funding shortfall. DPR proposes to give the Director authority in regulation to set fee rates annually, at a rate calculated to cover program costs.

What is the appropriate rate of mill assessment on pesticide products that are used primarily in agricultural production and the appropriate rate for all other pesticide products?

DPR proposes a uniform rate of mill assessment for all pesticide products. It is true that some programs (such as use reporting, restricted material permits, and enforcement) pertain primarily to products used for agricultural production. However, other programs (such as illness tracking and investigations) are weighted toward nonagricultural products. An attempt to apportion these activities on an industry-by-industry or sector-by-sector basis could complicate mill collection activities and significantly increase administrative costs, while potentially creating friction within the regulated community.

However, should the Legislature entertain the prospect of a differential rate of mill assessments, a specifically differential mill assessment for restricted materials would offer the most feasible prospects for implementation. Due to their potential hazards, these pesticide products are tracked throughout the pesticide regulatory process, from initial registration to permitting, enforcement, and use reporting. Restricted materials are also the primary products regulated by the county agricultural commissioners. (The AB 780 subcommittee engaged in extensive discussions on a differential for restricted materials; *see Chapter 11.)*

On a related note, DPR will establish a new branch within its Division of Administrative Services in 2003 to assume responsibility for all mill assessment activities. The branch will consolidate mill assessment collections, field investigations of unregistered product sales, and auditing activities. Our intent is to develop a more predictive model for mill revenues, ensure mill payments are timely and equitable, and take swift enforcement action against unregistered products to protect the public and law-abiding registrants.

What are potential improvements in the efficiency of DPR's operations, including mechanisms to share pesticide registration workload with the U.S. Environmental Protection Agency (U.S. EPA)?

As the Davis Administration's DPR Director, my commitment has been to make DPR programs and processes open and transparent so that customers can easily access the information and services they need. Despite financial restraints, we have moved quickly to implement Governor Davis' vision of providing more government services via the Internet to conduct our activities as efficiently as possible. We also established performance metrics that are easily tracked and understood so that the Legislature, industry, environmental groups, labor organizations, and other stakeholders have the ability to evaluate the performance of every critical DPR function on an ongoing basis.

Chapter 12 of this report *(beginning on page 79)* details the major operational improvements we have been implementing at DPR during the past few years. These include:

- Collaborating with U.S. EPA to jointly plan registration reviews for new active ingredients.
- Receiving a national award from U.S. EPA for our joint efforts with the federal agency to establish new tolerances for pesticides and crops critical to California growers.
- Implementing new e-government systems that allow registrants immediate access to the status of their registration requests.
- Providing access to pesticide use data via the Internet, both for data entry and report generation.
- Establishing new county performance targets and program effectiveness evaluation processes.
- Conducting assessments of industry compliance with pesticide program requirements.

- Improving the accuracy and completeness of the pesticide illness tracking system, and using the data to improve worker protection programs, among other improvements.

This completes DPR's response to the four questions raised in AB 780. Our recommendations also fulfill a final request from the Legislature. DPR was asked to provide "a funding solution for the Department that will eliminate the need to reauthorize the mill assessment on pesticide and consumer product sales every five years and that will preserve the accountability of the department to the entities contributing to the financing of the Department."

Reauthorization or "sunset" of the mill assessment prompted extensive discussions with our AB 780 subcommittee *(see Chapter 13)*. Industry representatives supported a continuation of the sunset, arguing it is needed to control costs imposed on their constituencies. DPR employee representatives oppose the sunset because it may adversely impact programs and employee morale. Public interest advocates were essentially neutral.

For many years, arguments on reauthorizing the mill assessment focused on who should pay, and how much. That often-heated rhetoric excluded any serious discussions about pesticides and regulatory policies. Meanwhile, other environmental programs saw their fees set in regulation, sometimes with statutory caps, as DPR now proposes for itself. We believe that DPR's funding recommendations will fully address the issues of review and accountability. The legislative budget process is the most appropriate forum to determine pesticide regulatory funding in California. It will ensure a public process, provide accountability to all stakeholders on an annual basis, and stabilize regulatory program funding.

In conclusion, DPR's regulatory programs are critical for directing the safe use of pesticides in a state that leads the nation as both agricultural producer and urban center. As communities and farms grow closer together, our mandate to protect the public, workers, and the environment will grow even more challenging.

In the immediate future, DPR will play an integral role in countering threats such as West Nile virus and Sudden Oak Death Disease, and exotic pests such as the Mexican fruit fly. We have demonstrated an ability to expedite least-toxic, highly effective pest management tools when new pest emergencies arise. Taking a longer view, DPR grant programs have helped growers and others prevent further water and air contamination. These and other DPR activities are jeopardized by a lack of stable, long-term funding.

In addition to protecting public health and the environment, DPR provides a variety of programs that assist the regulated community, while keeping pesticide uses safe and viable for agriculture. It is both reasonable and logical that regulated industry should fund a regulatory program, especially since there is no demonstrated hardship to industry.

We thank the Legislature and the Governor for the opportunity to explore these issues and present recommendations to guide DPR into the future.

Paul E. Helliker
Director
California Department of Pesticide Regulation

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PART ONE

PURPOSE

IN THIS SECTION

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CHAPTER 1

PURPOSE

IN THIS CHAPTER:

- AB 780 and the questions to be addressed in this report
- How the report was developed
- Members of the advisory subcommittee

Assembly Bill 780 (Thomson, Chapter 523, Statutes of 2001) set the pesticide assessment rate at 17.5 mills until June 30, 2004; made electronic or other means of pesticide sales expressly subject to assessment; and required the Department of Pesticide Regulation (DPR, the Department) to analyze its funding, with assistance from a stakeholder advisory committee. *(See Appendix for full text of AB 780.)*

QUESTIONS TO BE ADDRESSED IN THIS REPORT

In accordance with the legislation, this report to the Legislature addresses the following questions:

What are the ongoing funding needs that will allow the Department to carry out its responsibilities under state statutes and regulations?

What is the appropriate mix of general funds and special funds, including the pesticide mill assessment, to support the Department's activities?

What is the appropriate rate of mill assessment on pesticide products that are used primarily in agricultural production and the appropriate rate for all other pesticide products?

What are potential improvements in the efficiency of DPR's operations, including mechanisms to share pesticide registration workload with the U.S. Environmental Protection Agency (U.S. EPA)?

The Legislature also requested that this report recommend "a funding solution for the Department that will eliminate the need to reauthorize the mill assessment on pesticide and consumer product sales every five years and that

will preserve the accountability of the department to the entities contributing to the financing of the Department."

AB 780 also required the Department to assemble a subcommittee of DPR's Pest Management Advisory Committee, representing specific stakeholder groups, "to assist …in preparing the analysis and report." *(See box for subcommittee members.)*

The subcommittee met four times as a committee of the whole. In addition, subcommittee workgroups were formed to address each of the four questions specifically posed in the legislation *(see above)*. Membership on the workgroups was open to all members of the subcommittee. Depending on their particular focus and areas of interest, subcommittee members chose to sit on one or more workgroups, and as a result, there was considerable overlap. These groups met frequently over a three-month period, and were invited to submit comments on drafts of this report. Many comments were incorporated. All written comments have been included in the Appendix.

MEMBERS OF THE PEST MANAGEMENT ADVISORY COMMITTEE AB 780 SUBCOMMITTEE

Paul Helliker, Director, DPR; Paul Gosselin, DPR Chief Deputy Director; Adrienne Alvord, DPR Legislative Director; Steve Archibald, Assembly Appropriations Committee; Robert Baker, structural pest control industry; Steven Beckley, California Plant Health Association (CPHA); Matt Billings, Association of Natural BioControl Producers; Christine Bruhn, Center for Consumer Research, University of California;

Mark Cady, Community Alliance with Family Farmers; Frank Carl and Dave Whitmer, California Agricultural Commissioners and Sealers Association; Wes Carr and Steve Baker, California Association of Professional Scientists; Cynthia Cory, California Farm Bureau Federation; Kim Crum, California Agricultural Production Consultants Association; Shane Gusman, teamsters/labor; Martha Guzman, United Farm Workers of America; Ralph Heim, The Procter & Gamble Co./consumer products; Walt Johnson, pesticide dealers/CPHA; Mary Kaems, Assembly Speaker's Office of Member Services;

Anne Katten, California Rural Legal Assistance Foundation; Joel Nelsen, California Citrus Mutual; Laurie Nelson, Consumer Specialty Products Association and Clorox; Sara Nichols, California Nurses Association; Teresa Olle, California Public Interest Research Group; Steve Pavich, Pavich Family Farms; Pete Price, California League of Conservation Voters; Jennifer Ryder-Fox, Agraquest, Inc.; Danny Saldana, California State Employees Association; Mary Shallenberger, Office of Senator John Burton; Bill Thomas, production agriculture/agricultural chemical industry; Frank Vega, Senate Budget and Fiscal Review Committee; and Dawit Zeleke, The Nature Conservancy.

PART TWO

REGULATING PESTICIDES: ROLES AND RESPONSIBILITIES

IN THIS SECTION

Chapter 2. Regulating Pesticides

What is a pesticide?
What DPR does
Local enforcement
Legal mandates

Chapter 3. Roles and Responsibilities

The role of U.S. EPA
The role of the states
Differences in DPR and U.S. EPA roles
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U.S. EPA's risk-benefit mandate
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CHAPTER 2

REGULATING PESTICIDES

IN THIS CHAPTER:

- What DPR does
- What is a pesticide?
- Local enforcement
- Legal mandates

California has regulated pesticides for a century. Its citizens – through their gubernatorial administrations and Legislature – have established a comprehensive body of law to control every aspect of pesticide sales and use, and to assure that the state's pesticide regulators also have the tools to assess the impacts of that use. The first pesticide-related law was passed in this state in 1901, and since the 1960s, a whole body of modern, increasingly science-based pesticide law and regulation has come into being. DPR is not only the premier state agency for pesticide regulation in the U.S., but has built a reputation of world-class science and regulatory decisionmaking that makes it the acknowledged peer of U.S. EPA and Health Canada.

DPR's mission is to protect human health and the environment by regulating pesticide sales and use and by fostering reduced-risk pest management. DPR's strict oversight begins with product evaluation and registration, and continues through statewide licensing of commercial applicators, dealers, consultants, and other pesticide professionals; evaluation of health impacts of pesticides through illness surveillance and risk assessment; environmental monitoring of air, water, and soil; field enforcement (with the County Agricultural Commissioners) of laws regulating pesticide use; and residue testing of fresh produce.

For the 2001-02 fiscal year, DPR's budget was $63 million, $49.5 for State operations, the remainder providing partial funding of county enforcement operations. However, the State's fiscal crisis forced DPR spending in 2001-02 to be curtailed by $4.8 million, to $44.7 million for State operations. (Local assistance was not affected.) In 2002-03, the General Fund shortfall and declining special fund revenues resulted in a further budget reductions, to $41.2 million. DPR's authorized staffing was also trimmed, and by late 2002, DPR had approximately 380 employees. *See Chapter 6 for a more detailed budget discussion.*

Local Enforcement

The County Agricultural Commissioners (CACs) play a central role in helping the Department fulfill its mission to ensure the safe use of pesticides. The size and diversity of agriculture in California dictate a much more complex partnership between State and local pesticide regulatory authorities than anywhere else in the nation.

DPR works closely with the CACs, who serve as the primary enforcement agents for State pesticide laws and regulations in the State's 58 counties. Commissioners are an essential element in the Department's equivalency requirements under the California Environmental Quality Act (CEQA). CACs are responsible for issuing the site- and time-specific permits required of those who wish to use restricted pesticides in agriculture. (Restricted materials are those pesticides that have a higher potential to have an adverse impact on health or the environment.) No other state has a permitting system for use of highly hazardous pesticides, and few states have any effective mechanism for enforcement of pesticide laws and regulations at the county level.

CAC staffs conduct inspections of pesticide applications to ensure worker protection, enforce regulations to protect ground and surface water from

WHAT IS A PESTICIDE?

Pesticides are unique among toxic substances. They are not an unwanted byproduct of another process, for example, the exhaust of an internal combustion engine. Pesticides are chemicals produced specifically for their toxicity to a target pest, and they must be purposely introduced into the environment to do their job.

"Pesticide" is an umbrella term that includes many kinds of chemicals. A pesticide is any substance intended to control, destroy, repel, or attract a pest. Any living organism that causes damage or economic loss, or transmits or produces disease may be the target pest. Therefore, pesticides include not only insecticides, herbicides, and other agricultural and lawn-and-garden chemicals, but also many industrial, institutional and home cleaning products, such as algaecides (used to control algae in swimming pools and water bodies), disinfectants, sanitizers, mildew removers, and insect repellents.

Each year between 1990 and 2001, there were between 543 and 706 million pounds of pesticides sold in California. (This includes adjuvants, a class of chemicals exempt from federal licensing but which must be registered in California. Adjuvants are emulsifiers, spreaders, and other compounds added to enhance the effectiveness of a pesticide.)

About 40 percent (by pounds) of these sales are typically chlorine-based products, primarily used for municipal water treatment. These chemicals are among the approximately two-thirds of the pesticides sold that are not subject to California's use reporting requirements. Another 30 percent of the pounds sold are used in production agriculture (where all use must be reported).

pesticide contamination, and conduct investigations of pesticide-related illnesses and injuries. They are employees of their counties but perform pesticide-enforcement duties in accordance with DPR guidelines and policies, under the supervision of and with partial funding from the Department. In 2001, approximately 400 county biologists devoted more than 538,000 hours to pesticide enforcement activities, at a total cost of $31.7 million. State funds provided less than half of that funding. *(For discussion of CAC funding, please see Chapter 5.)*

DPR's Broad Mandates

California's Food and Agricultural (F&A) Code Section 11501 sets forth the general purposes of law that fundamentally authorizes the State's pesticide regulatory program. Although DPR's mandate can be encapsulated in seven words – ***to ensure that pesticides are used safely*** – Section 11501 sets it out in more detail:

> *To provide for the proper, safe, and efficient use of pesticides essential for production of food and fiber and for protection of the public health and safety.*
>
> *To protect the environment from environmentally harmful pesticides by prohibiting, regulating, or ensuring proper stewardship of those pesticides.*
>
> *To assure agricultural and pest control workers of safe working conditions where pesticides are present.*
>
> *To permit agricultural pest control by competent and responsible licensees and permittees under strict control of DPR and the County Agricultural Commissioners.*
>
> *To assure consumers and users that pesticides are properly labeled and appropriate for the use designated by the label, and that state or local governmental dissemination of information on pesticidal uses of any registered pesticide product is consistent with the uses for which the product is registered.*
>
> *To encourage the development and implementation of pest management systems, stressing application of biological and cultural pest control techniques with selective pesticides when necessary to achieve acceptable levels of control with the least possible harm to the public health, nontarget organisms, and the environment.*

Executive Order D-15-83, signed in 1983, designated the State's pesticide regulatory program (then housed at the California Department of Food and Agriculture, CDFA, now under the Department of Pesticide Regulation) as the lead agency in matters pertaining to pesticides. A state law passed in 1984 also preempts local government from passing ordinances regulating the sales, use or handling of pesticides.

The State's pesticide program also operates under CEQA in a unique fashion. Passed in 1970, CEQA is the State's principal statute mandating environmental impact review (EIR) of development projects in California. It applies generally to all state and local agencies and to private activities that the agencies finance or regulate.

After a specially convened Environmental Assessment Team determined that EIRs were not feasible for each pesticide registration or use, the Legislature in 1978 passed AB 3765, which provided for an abbreviated environmental review procedure for pesticides to serve as the functional equivalent to a full-scale EIR. This meant that the State and the County Agricultural Commissioners did not have to prepare an EIR on each product or permit approved.

Instead of an EIR, a "functionally equivalent" system was approved to document potential environmental impacts, mitigation measures and alternatives analysis. Under the new system, the Department expanded its review of data before registration, revised regulations related to pesticide registration and evaluation, posts public notices of proposed registration decisions for pesticides (both agricultural and non-agricultural), and requires site-specific permits to use certain restricted pesticides. The regulations also set up a mechanism for interaction between the Department and other State agencies that have responsibility for resources that may be affected by pesticides.

Expanding Mandates

Beginning in the early 1970s, gubernatorial administrations and the Legislature began a series of actions intended to provide DPR with new resources and tools to carry out responsibilities delegated to DPR by U.S. EPA, adding staff and civil penalty authority for enforcement, for example. In addition, out of frustration over U.S. EPA's slow pace of filling gaps in pesticide health effects and environmental monitoring data, the California Legislature directed DPR to collect data needed to carry out extensive human health and environmental risk assessments. The Legislature has also required DPR to put in place risk mitigation measures, when considered necessary, that may be stricter or more comprehensive than those brought about by federal law. The 1980s brought these significant new mandates:

- The Toxic Air Contaminant Act (AB 1807, 1983), which created the statutory framework for the evaluation and control of chemicals as toxic air contaminants (TACs). The statute defines TACs as air pollutants that may cause or contribute to increases in serious illness or death, or that may pose a present or potential hazard to human health.
- The Birth Defect Prevention Act (SB 950, 1984), which requires that DPR obtain a full complement of chronic health effects studies on products containing new active ingredients, and mandated that registrants of older pesticides (those registered before 1984) bring health effects data on their chemicals up to current scientific standards.
- The Pesticide Contamination Prevention Act (AB 2021, 1985) established a process designed to prevent further pollution of ground water by agricultural pesticides.

- The Food Safety Act of 1989 (AB 2161), which among other things mandated that DPR conduct assessments of dietary risks associated with the consumption of produce treated with pesticides and gave the Department authority to call in data on acute pesticide risks.

In 2000, the Healthy Schools Act (AB 2260) put into law DPR's existing program to encourage schools to adopt reduced-risk pest control methods. The legislation also added requirements for schools, including parental notification of pesticide applications, warning signs, record keeping at schools and pesticide use reporting by licensed pest control businesses that apply pesticides at schools.

Other important legislative initiatives include statutes that gave the CACs authority to levy direct civil penalties on pesticide violators; provided DPR parallel (although more limited) civil penalty authority; authorized the Department to require full reporting of all agricultural pesticide use; and provided authority to cancel registrations of pesticides whose makers do not respond to a DPR request for additional health or environmental data.

Fulfilling Mandates and Serving Needs

Beginning in the early 20th century, the State's pesticide regulators have initiated a wide range of programs to carry out the Legislature's general mandates. They include:

- The nation's oldest and most comprehensive state program to find illegal pesticide residues in fruits and vegetables. In this benchmark program, established in 1926, DPR collects about 4,000 domestic and imported produce samples annually, testing them for more than 200 pesticides and breakdown products. Detectable residue levels are compared against a "tolerance," or maximum level of a particular pesticide allowed on the commodity at harvest. (The tolerance is set by U.S. EPA at a level intended to protect consumers, including children.)
- A pioneering worker safety program established in the 1970s, including special requirements for handler training, hazard communication, engineering controls, personal protective equipment, and medical supervision.
- The nation's most comprehensive program to record, investigate and track pesticide-related illnesses in both agricultural and non-agricultural settings, established in the early 1970s. The information helps the Department evaluate and improve protective measures.
- A program (the only one of its kind in the nation) that designs and conducts field studies to more accurately determine exposure to pesticides. DPR scientists develop monitoring methods in response to new exposure situations and incorporate technological developments to prepare more accurate assessments of worker exposure.
- Broad requirements for pesticide use reporting, established in 1990. California is the only state to require full use reporting of all agricultural pesticide use and of structural pesticides applied by professional applicators. The data helps DPR estimate dietary risk and

ensure compliance with clean air laws and ground water regulations. Site-specific use report data, combined with geographic data on endangered species habitats, help County Agricultural Commissioners resolve potential pesticide use conflicts. DPR also uses the data to analyze how, when and where pesticides are used on different crops. Reduced-risk pest management alternatives can then be developed considering the different regions of the State and the commodities grown in those regions.

- To help fulfill its mandate to encourage pest management systems that reduce pesticide risks, in 1995 DPR became one of the few government agencies in the nation awarding grants to help develop innovative pest management practices. This program also demonstrates DPR's commitment to encouraging voluntary, community-based pollution prevention programs. (Budget cuts forced the suspension of these grant programs in 2002.)
- Established a surface water protection program to characterize pesticide residues in surface water bodies (including rivers, streams, and agricultural drains), identify the sources of the contamination, determine the mechanisms of off-site movement of pesticides to surface water, and develop site-specific mitigation strategies.
- Special projects in response to local concerns about pesticides. For example, to address Native American concerns about the impact of pesticide use on their communities, DPR began a multi-year project in 1996 to monitor surface waters, traditional plants and other natural resources for pesticide residues. In the same vein, during the 1990s DPR and other agencies within the California Environmental Protection Agency (Cal/EPA) worked with the Santa Barbara community of Lompoc to resolve the community's health concerns by analyzing pesticide use in the area, evaluating illness rates and types, and conducting targeted monitoring for specific pesticides of concern.

CHAPTER 3

ROLES AND RESPONSIBILITIES

IN THIS CHAPTER:

- The role of U.S. EPA
- The role of the states
- Differences in DPR and U.S. EPA roles
- California's unique focus
- U.S. EPA's risk-benefit mandate
- Coordination with other agencies and the University
- *About Section 18s*

Periodically over the past 20 years, criticism has been voiced by regulated industries that California's pesticide program is unnecessarily duplicative of other state or federal government programs, increasing costs and resulting in delays in registering pesticide products. (In 1990, after this criticism was renewed during legislative debate on changing the mill assessment rate, the Legislature requested a formal report "to determine which program components can be modified or eliminated in order to avoid duplication of any other State or federal requirements.")

A particular focus of this criticism has been California's pesticide registration program. California is unique among states for the breadth and depth of the evaluation it conducts before allowing the sale and use of pesticides. The program's closest parallel is that of U.S. EPA. However, while both DPR and U.S. EPA evaluate and license pesticides for sale and use, the two programs fill separate though complementary roles. The State fulfills a specific function under federal pesticide laws. In addition, California regulators are subject to specific State mandates, not the least of which is the CEQA requirement that DPR consider the potential impact of a pesticide on California's unique environment, under California use conditions.

In response to these critiques, DPR embarked on a decade-long self-examination that has resulted in significant progress in eliminating unnecessary duplication and overlap, increasing programmatic efficiency and service to the public and regulated industries. *(See Chapter 12 for discussion of these initiatives.)* At the same time, one must recognize there will always be some *necessary* duplication and overlap with U.S. EPA. The requirements of State law – and the generally

higher expectations of the citizens of California (including State legislators) regarding implementation of health and environmental standards in the nation's most populous and top agricultural state – demand no less.

THE ROLE OF U.S. EPA

The Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA, the omnibus federal pesticide statute) *specifically* authorizes state regulation of the sale and use of federally registered pesticides as long as state regulations are at least as restrictive as federal standards. Under FIFRA, for example, states may prohibit the distribution and sale of a federally registered pesticide or restrict pesticide use locally to protect ground water, wildlife, or human health. (Acknowledging the realities of interstate commerce, FIFRA does prohibit states from imposing their own requirements on pesticide labeling or packaging.)

Generally, U.S. EPA enforces FIFRA requirements. However, FIFRA Section 26 gives states that have adequate enforcement procedures, laws, and regulations, primary authority for enforcing state laws and regulations related to pesticide use in their own jurisdictions. In 1975, California became the first state in the country to receive such designation, and today virtually all states manage their own enforcement programs under cooperative agreements with U.S. EPA.

The pivotal role of the states in regulating the use of pesticides is a result of lobbying by the states, who have argued successfully that their level of control is more knowledgeable, precise, and reliable. The federal role, by design, is not intended to substitute for the authority of any state to pursue a regulatory approach best suited to local conditions.

THE ROLE OF THE STATES

Charges of programmatic redundancies are not unique to California. Those who register and distribute pesticides nationally complain to Congress that – given federal standards – local and state pesticide use restrictions are unnecessary and make it difficult to conduct business from state to state. The criticism prompted this response in a 1996 U.S. Senate staff analysis of FIFRA amendments:

"Throughout history, States traditionally have had the fundamental responsibility of protecting health and safety. Over time, as some health and safety issues have become more complex and national in scope, some of these responsibilities have been shifted to the Federal government. In general, Federal authority has not increased at the expense of State authority. Even when it has, existing statutes have allowed States to set more stringent standards than Federal standards, if so desired and needed. We should permit States to set separate safety standards. States can set these standards more quickly than the U.S. EPA in response to an emergency. They can also set a standard that provides more comprehensive protection than a federal standard. Some states, for example, have formulated standards that are more stringent than federal standards and are better designed to protect individual groups of citizens.

"If states are no longer able to act independently to protect health, they will lose their access to the federal process, and the balance of the current system will be lost. It remains a question of policy, of wise interpretation of the Constitution, which recognizes that the federal government should not move in with a heavy foot and stomp on the rights of individual states to pass judgment on products that have a direct effect on the health and safety of their citizens," the Senate analysis concludes.

Differences in DPR and U.S. EPA Roles

Thus, while there are parallels in U.S. EPA's and DPR's pesticide regulatory programs, there are significant differences as well. That is, even in arenas where there appears to be significant overlap, there may be little duplication.

For example, DPR and U.S. EPA may review the same group of toxicology studies submitted with an application for registration; however, they may rely on different studies from the data package to reach a registration decision. Often, the two agencies reach the same conclusion. In some cases, the conclusions differ, in part because DPR focuses on California-specific impacts. DPR may refuse to register a product because of potential impacts on workers in California's labor-intensive agriculture, or because the only potential use of the product in California would be in areas that are also home to an endangered species that would be harmed by the pesticide.

Moreover, U.S. EPA has broad authority to waive submission of some studies, or to not complete data evaluations, before granting conditional registrations. As a result, U.S. EPA often allows products to be sold and used while studies and reviews are being completed. On the other hand, DPR's authority to grant conditional registration is much more limited. In most cases the Department is precluded from registering a product containing a new active ingredient without having finished its review of a complete data package. Applicants for California registration of a new pesticide product must either submit all required data, or specifically cite relevant data currently on file with DPR. If the registration applicant does not own the cited data, they must obtain a letter of authorization from the data owner.

Furthermore, DPR may require additional or different studies not required by U.S. EPA for federal registration of a specific product. These additional studies may include data on worker exposure, foliar residue, indoor exposure potential, hazards to bees, and dust hazard of powdered products to workers.

In addition, under federal regulations, applicants for U.S. EPA registration of a pesticide product containing the same active ingredient as products already registered (even though the formulation may differ) are not required to submit data, and can instead simply cite "all" data on file with U.S. EPA that was previously submitted by other registrants. U.S. EPA does not determine whether relevant studies are on file to support all registered pesticide products until some later date when the active ingredient goes through the federal reregistration process.

Additionally, DPR requires that efficacy data be submitted with all applications for registration. U.S. EPA requires that manufacturers develop but not necessarily submit such data, except for products that have public health impacts such as disinfectants. DPR's evaluation of product effectiveness data protects California pesticide users from the consequences of ineffective products.

Differences in Data Evaluation Procedures

There are also significant differences between U.S. EPA and DPR in how pesticide data are considered. In California, more than 350 different kinds of crops are grown, primarily fruits, nuts and vegetables. Most are considered "minor crops" for pesticide sales, unlike the field crops of the Midwest and South (corn, soybeans and wheat, for example) which, with their extensive national acreage, are the major market for pesticides and thus the natural focus of U.S. EPA.

Field crops require little cultural care during the growing season and are primarily harvested mechanically, by workers driving in enclosed cabs. This is in contrast to California's fruit, nut and vegetable crops, which often require extensive cultural care before harvest, with accompanying worker contact with foliage. Many California crops are hand-harvested. Between a quarter and a third of all farm workers in the U.S. work in California. (Estimates of the number of farm workers in California vary but are on the order of 750,000.)

DPR gives specific attention to how a pesticide will be used under California climatic and cultural conditions. Some crops, such as rice, may be grown with different water and land management practices in California than in other areas of the country. California agriculture is irrigated, changing how pesticides are applied and how workers (irrigators moving pipe, for example) are exposed. DPR's own field studies have found that pesticides that may decay rapidly under warm, humid conditions can persist longer under hot, dry conditions typical of many of the State's agricultural areas. Algaecides and other pesticides used in swimming pools must reflect the outdoor, year-round use that is typical in many areas of California.

California's Unique Focus

California is also unique in that tens of thousands of its residents live in suburbs adjacent to the nation's most intensively farmed acreage. The impacts of pesticide use at this agricultural-urban interface are a key evaluation factor in California. DPR, for example, has traditionally placed more emphasis than U.S. EPA on evaluating the potential for off-site movement of pesticides, and on taking steps to prevent it. DPR's fumigant program also has no parallel at U.S. EPA. DPR has extensive rules and regulations designed to reduce of off-site movement of three widely used fumigants, methyl bromide, 1,3-dichloropropene and metam-sodium. U.S. EPA has focused on methyl bromide's ozone-depleting characteristics, and on 1,3-dichloropropene primarily because of its potential to contaminate ground water. Similarly, U.S. EPA has no special restrictions on metam-sodium beyond those on the product label.

These and other differences affect the evaluation of safety and effectiveness of pesticide products in California. DPR has expertise in evaluating California-specific impacts on environment and health that U.S. EPA – a federal agency – cannot have.

DPR on occasion denies registration of products that have obtained federal registration. These denials have been based on such factors as a lack of appropriate or adequate studies, label instructions that do not provide sufficient mitigation of product hazard, and an insufficient margin of safety in the projected use. As a result of registration review, the Department also may impose use restrictions and mitigation measures in addition to those on pesticide labels, assuring that valuable pest control technologies are made available to California consumers while potential risks to the public, workers and the environment are minimized.

U.S. EPA's Risk-Benefit Mandate

Another difference between the U.S. EPA and DPR registration process is that FIFRA requires U.S. EPA to balance risk considerations with economic benefits. During the registration process and more formally, during cancellation proceedings, U.S. EPA must determine not only whether there are "unreasonable adverse effects on the environment," but must also take into consideration the "economic, social, and environmental costs and benefits of the use of any pesticide." In suspension proceedings (as opposed to registration decisions), U.S. EPA is not required to balance environmental risks and benefits, although it has been U.S. EPA's policy to conduct such an analysis.

The differences between federal and state laws in this regard, while subtle, are critical. U.S. EPA is charged by FIFRA to register a pesticide upon determining that "its composition is such as to warrant the proposed claims for it; its labeling and other material required to be submitted comply with the requirements of FIFRA; it will perform its intended function without unreasonable adverse effects on the environment; and, when used in accordance with widespread and commonly recognized practice it will not generally cause unreasonable adverse effects on the environment." (FIFRA, Section 3[c][5])

Although the risk-benefit provisions of FIFRA were modified in 1996 to ensure health-based safety standards for dietary residues, federal law mandates U.S. EPA consider economic benefits of pesticides, defining unreasonable adverse effects on the environment to mean "any unreasonable risk to man or to the environment, taking into account the economic, social, and environmental costs and benefits of the use of any pesticide, or a human dietary risk from residues that result from a use of a pesticide in or on any food inconsistent with the standard" set in 1996 of a "reasonable certainty" of no harm. (FIFRA, Section 2[bb])

Similarly, U.S. EPA may cancel the registration of a pesticide if it finds that "when used in accordance with widespread and commonly recognized practice, (it) generally causes unreasonable adverse effects on the environment." (FIFRA, Section 6[b])

California law does not require consideration of economic benefits and DPR does not register products with unmitigated, significant adverse effects, no matter the benefit. California law provides a clear mandate to assure that pesticide use in the state poses as little risk as possible to the public, farm workers, and the State's environment and wildlife.

The basic decision rule is simple: DPR may approve a pesticide registration application (and, if already registered, allow continued use) if it is convinced that the pesticide can be used safely, assuming the product is applied according to label directions, and in accordance with any additional permitting requirements DPR might implement under certain circumstances. California law instructs DPR to "…endeavor to eliminate from use in the state any pesticide which endangers the agricultural or non-agricultural environment, is not beneficial for the purposes for which it is sold, or is misrepresented." (F&A Code 12824)

Other Key Differences

There are also significant differences in other aspects of the State and federal pesticide programs. For example, when U.S. EPA in 1989 proposed a new national endangered species protection program, it would have prohibited the use of certain pesticides in large areas throughout California. U.S. EPA's approach to habitat mapping and hazard assessment, necessarily national in scope, was particularly unsuitable for California conditions. For example, some habitats were overestimated by factors of 10 to 10,000 times the actual area.

With the cooperation of federal, state, and local agencies, DPR in 1989 began developing its own, highly respected endangered species program. DPR's program is customized to the state's unique microhabitats and varied cropping patterns to make sure local conditions are examined and local concerns are met when U.S. EPA makes decisions on pesticide use in endangered species habitats. California's program is based on accurate habitat maps and on mitigation measures tailored to allowing needed pest control while providing protection to endangered species.

DPR has strong, formal programs that U.S. EPA does not for post-registration evaluation of pre-registration conclusions. In registering a product, both DPR and U.S. EPA rely on various data to conclude that a product can be used safely. However, DPR's environmental monitoring of air and water, illness surveillance program, exposure monitoring studies, and ground water reporting system each help determine if that conclusion is borne out by real-world use, and if not, how use practices can be changed to mitigate adverse effects.

Focusing on Expertise

While criticisms of redundancy overstate the case, and critical differences in law and methodology exist between U.S. EPA and DPR, there is nonetheless ample room for coordination and collaboration. Over the past decade, the two agencies have made significant strides in worksharing as they explore their respective

procedures, methods, and areas of special expertise, with the mutual goal of eliminating unnecessary duplication. *(See discussion, Chapter 12, on U.S. EPA-DPR worksharing project.)* However, DPR must continue to focus on areas of interest to California: that is, the State's particular mix of food and fiber crops, and more broadly, the unique concerns of California residents, particularly at the agricultural-urban interface.

U.S. EPA, in turn, has its own focus areas, in particular, cumulative risks posed by pesticides with common mechanisms of toxicity; endocrine disruptor screening and testing; identifying and developing new methods for complex ecological risk assessments; advancing the use of safer inert ingredients; and tolerance reassessment mandated by the Food Quality Protection Act (FQPA).

U.S. EPA also has made extensive use of California data gathered by DPR as it carries out the mandates of FQPA. California's pesticide use reporting data has assisted U.S. EPA by providing percent-of-crop-treated information necessary so as not to overstate cumulative risk. Moreover, U.S. EPA has acknowledged the high level of expertise and professionalism of DPR scientific staff by appointing a number of them to various panels that advise the federal agency on scientific policy and methodology. This also helps ensure that California's concerns are recognized in the formulation of federal scientific policies, and at that same time, that DPR policy development is informed by actions at the federal level.

Coordination with Other Agencies

There are several other programmatic areas where DPR activities and those of other state or federal agencies, or the university, appear to overlap. But the roles and responsibilities may differ considerably. For example, both the State Department of Industrial Relations and DPR oversee worker safety. However, Industrial Relations does not have programs that specifically address the safe use of pesticides, and neither does it investigate injuries or illnesses related to pesticide use. The County Agricultural Commissioners and DPR have the expertise and mandate in this arena, and investigate, evaluate and track every reported pesticide-related injury and illness.

The Air Resources Board (ARB) is the lead agency for implementation of the Toxic Air Contaminant Act, except for pesticides in air. In its smog-fighting role, the ARB also regulates the volatile organic content of consumer products, including many pesticides. (DPR has the lead with agricultural products.) Cal/EPA's Office of Environmental Health Hazard Assessment has the lead role for Proposition 65, including the listing of pesticides.

The State Water Resources Control Board (SWRCB) is the lead agency for coordinating and controlling water quality. DPR, as the lead pesticide agency, directly regulates the sales and use of pesticides, so its authorities also bear on the impact pesticides may have on water quality. DPR and the SWRCB have signed a management agency agreement to identify primary areas of responsibility and authority and to coordinate how local and State authorities work together in solving water quality problems related to pesticide use.

Coordination with the University

In pursuing DPR's mandate to encourage the development and implementation of reduced-risk pest management systems, DPR focuses on solving human health and environmental problems related to administration of pesticide regulations. DPR works cooperatively with the University of California (UC) and State University systems to identify where and how research, extension and education goals of the University can address pesticide regulatory issues through practical pest management.

DPR's programs focus on particular regulatory concerns in a way that the University does not. The Department emphasizes opening up dialogues with regulated industries to work together to implement feasible solutions to regulatory constraints. While the solutions frequently utilize the University's expertise, DPR's participation is critical to keeping this process focused on specific regulatory issues of primary concern and to providing analyses of the nuances of pesticide use in various situations.

In a 1994 report on the value of agricultural research programs, the University recognized the importance of addressing these concerns, saying: "Agricultural research on environmental and resource topics has become increasingly aimed towards helping agriculture respond to added regulations more efficiently. As the public demand for more environmental regulations continues, agriculture requires alternatives to current practices that will allow growers to maintain productivity in the face of changing and more restrictive regulations. Without ongoing research, it is difficult to maintain positive trends in productivity in the face of new regulatory constraints."

To eliminate overlap and improve coordination with the University and other organizations that fund pest management research, the Department in 2001 commissioned a study of its grant programs, and is now pursuing many of its recommendations. (The 98-page evaluation by the Center for Agricultural Partnerships is available on DPR's Web site.)

Other State departments such as Health Services, Fish and Game, or Industrial Relations are concerned with the identification of pesticide hazards that affect their operational sphere, but do not have the expertise to evaluate the impacts of entire cropping or pest management systems. They also lack authority to make changes in pesticide regulations. UC and the State University systems provide research, extension, and education, but have no regulatory authority.

The Department's Unique Role and Expertise

No other State program works more closely with agricultural and nonagricultural stakeholders and the public to provide information on and to promote pest management strategies that reduce pesticide hazards to health and the environment. DPR's is the only State program that evaluates an entire pesticide or pest management problem and coordinates implementation of corrective measures.

DPR's pesticide expertise, and the fact that this expertise stretches across multiple media (air, water, soil, and impacts on human health and wildlife), prompted a 1983 gubernatorial executive order giving the State's pesticide program primacy over pesticide issues. This lead role has been reinforced by the Legislature, which in passing a variety of legislative mandates has given DPR the lead role in pesticide workplace safety, and in evaluating and controlling the impacts of pesticides on air, ground and surface water. This delegation has been supported during Legislative debate by the agricultural and chemical industries that were concerned about maintaining DPR's primacy over pesticides.

Therefore, although there are DPR functions that the Administration and the Legislature could theoretically transfer to other state agencies, accompanying cost savings to the State may be minimal, since these activities are for the most part not conducted by other agencies at this time. Transferring functions would necessitate assigning resources as well. Such a transfer would not only significantly dilute DPR's primacy in this arena but, over time, would adversely affect the efficiencies inherent in its cross-media pesticide expertise.

ABOUT SECTION 18 AND SECTION 24c

Section 18: A state can issue a Section 18, after approval by U.S. EPA, to meet an emergency pest problem for which no registered product is available. DPR maintains an extensive program to review Section 18 applications (named for the subsection of FIFRA that authorizes them). Under federal law, applications must be submitted by the authorized state agency (in California, DPR). The great number of crops grown here (more than 350 kinds of fruits, vegetables, nuts and grains), the diverse geography and weather, and the multiple growing seasons make the use of Section 18s important in California.

Federal law and policy requires that use of exemptions be kept to a minimum, Section 18 applications undergo intensive scrutiny by U.S. EPA and before that, by DPR. Each year, DPR rejects several Section 18 applications, usually for failure to document the emergency adequately. Extensive documentation of the emergency pest problem must accompany a Section 18 request, including detailed information on the nature of the emergency, costs of control, past yields, projected losses, a five-year economic profile for the crop, and evidence of the lack of registered, available alternative pest control practices.

DPR routinely contacts university researchers and other expert sources to verify the justification, and works closely with commodity groups and other Section 18 applicants to assist them in developing the information necessary to support the application. California law requires an evaluation of the impacts of pesticide use on workers, and a good part of DPR's Section 18 review focuses on the potential effects of the proposed use in California's labor-intensive agriculture. The request must also include any available residue data to support a tolerance (allowable residue level). For many Section 18 tolerances, DPR staff prepares the scientific evaluation needed by U.S. EPA to expedite its evaluation. After DPR's scientific review of the residue, chemistry, toxicology, and efficacy data – and confirmation of the emergency need – the request is forwarded to U.S. EPA with a proposed tolerance.

California Section 18 Applications, 1995-2001

Year	# Recv'd	# Issued	DPR denied	USEPA denied
1995	37	27	10	0
1996	32	24	6	2
1997	49	41	4	4
1998	63	41	22	0
1999	55	42	11	2
2000	43	34	8	1
2001	42	33	8	1

Note: Number of Section 18 applications increased nationwide after the 1996 passage of the Food Quality Protection Act.

U.S. EPA relies on California to know the local circumstances justifying the urgent, non-routine situation and the emergency need. DPR has a hard-earned reputation of submitting Section 18 applications to U.S. EPA that are well justified and on target in assessing risks. The professionalism of DPR's scientific staff is highly respected at U.S. EPA and has given California's science-based regulatory program a unique standing and credibility. The federal agency relies on DPR to have conducted a thorough review, thereby reducing the time it takes for U.S. EPA to issue a Section 18 to California.

Section 24c: These are state-specific registrations, through which states can register a new pesticide product for any use, or additional use of a federally-registered product, as long as there is both a demonstrated "special local need" for such a product, and a tolerance, exemption from a tolerance, or another clearance under the Federal Food, Drug and Cosmetic Act has been established. A Section 24(c) can be requested by either the manufacturer as the first party or by a third party such as a grower association. The special local need (SLN) can be in a region of the state or can cover the entire state, and can be for a food or nonfood use. If for a food or feed use, a residue tolerance (or exemption from tolerance) must already be established for the active ingredient on that commodity. (Sometimes a group tolerance for similar kinds of crops is already in place.) Residue data to support the proposed use rates and method of application must be available for review. Some reduced-risk active ingredients are exempt from the tolerance requirement.

The special local need must be justified and supported by knowledgeable experts and there can be no registered products available to meet the need. Once issued, an SLN remains in effect indefinitely until withdrawn by the registrant, manufacturer or DPR, or until U.S. EPA cancels the use. (DPR issues approximately 100 SLNs each year.)

PART THREE

COSTS AND FUNDING

IN THIS SECTION

Chapter 4. U.S. EPA Pesticide Program
Costs and Funding

Chapter 5. County Agricultural Commissioner Pesticide Program
Mill Assessment Revenues
General Fund Revenues
Costs

Chapter 6. Department of Pesticide Regulation Costs
Cost analysis 2000-01 fiscal year
Budget and programmatic reductions since 2000-01

Chapter 7. Department of Pesticide Regulation Funding
Evolution of program funding
The DPR Fund
The mill assessment
Registration and licensing fees
Fees levied by the County Agricultural Commissioners

CHAPTER 4

U.S. EPA PESTICIDE PROGRAM

Among its other responsibilities, U.S. EPA regulates the use of pesticides. It does so under the authority of two laws – the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Federal Food, Drug and Cosmetic Act (FFDCA).

Like DPR, U.S. EPA licenses or registers pesticides for use based on its review of scientific studies on the pesticide to determine that the product will not pose unreasonable risks to human health or the environment. For pesticides used on food, U.S. EPA sets limits (tolerances) on how much of a pesticide residue may remain in or on foods, a role reserved by law to the federal government. U.S. EPA also sets minimum standards to protect workers who may be exposed to pesticides on the job. The federal agency also works to promote a safer means of pest control through research, public education, and public-private partnerships.

U.S. EPA's Office of Pesticide Programs' annual headquarters budget for FY 2002 was about $119 million. Of that total, approximately 15 percent is covered by fees and 85 percent by appropriated (i.e., general) funds. This percentage breakdown has varied considerably as U.S. EPA's authority to collect fees has changed over the years. (The headquarters budget figure does not include funding for U.S. EPA's nine regional offices. They handle a variety of environmental issues, including pesticides, but the amount of funding specific to pesticide regulation was not available for this report.)

U.S. EPA fees are discussed in Chapter 10.

CHAPTER 5

COUNTY AGRICULTURAL COMMISSIONER PESTICIDE PROGRAM

IN THIS CHAPTER:

- Mill assessment revenues
- General Fund revenues
- Costs

Among other duties, the County Agricultural Commissioners (CACs) are charged with local enforcement of pesticide laws and regulations, working under supervision of and contract with DPR. (Other CAC responsibilities include checking produce and nursery products for exotic pests; inspecting beehives for disease and pest infestations; inspecting fruit at packing stations for quality; enforcing the State's organic food laws; overseeing certified farmers' markets; and enforcing weights and measures laws.)

To conduct pesticide enforcement, the CACs receive mill assessment disbursements, State General Funds, general funds from their counties, miscellaneous payments from DPR (primarily fees for services), and funds from CAC-imposed fees and penalties.

MILL ASSESSMENT REVENUES

Beginning in 1971 (when the mill assessment was first established, at 8 mills or $0.008 on each dollar of pesticide sales), the CACs have received a fixed proportion of mill revenues. Under the current formula, the CACs receive the revenue generated from 6 of the 17.5 mills collected. Their actual revenue varies each year, depending on the value of the mill. (The assessment is a percentage of dollar sales of pesticides. Therefore, the revenue generated varies with annual pesticide sales. If each mill generates $1.6 million in revenue, for example, the CACs would receive $9.6 million.)

In the 1997 mill reauthorization legislation, the Department and the CACs were required to jointly develop regulations specifying the criteria to be used in allocating the mill assessment funds to the counties based upon four factors: each county's pesticide control activities, costs, workload, and performance.

Regulations addressing the first three factors went into effect in March 1999, and those addressing program effectiveness in July 2002.

General Fund Revenues

Among other requirements imposed by the 1978 passage of AB 3765 (which set up the functional equivalency program for pesticide regulation), the CACs carry out the restricted materials permit program. They issue site- and time-specific permits for the use of restricted pesticides (pesticides of higher health and environmental risk), receive and review notices of intended applications, and perform pre-application site inspections of a minimum of five percent of application sites.

In 1980, CDFA (which then administered the pesticide program) contracted with the counties for the State to reimburse the costs of this new mandated workload. That same year, the Administration and the Legislature established a $2.88 million General Fund appropriation for this purpose. The appropriation has never been increased. Since the early 1990s, the appropriation has been drawn from both the General Fund ($2.449 million) and the Department of Pesticide Regulation (DPR) Fund ($432,000). However, in 2002-03, the DPR Fund portion was shifted back to the General Fund.

The CACs also receive half of pesticide dealer license fees ($50 to $100) paid to DPR (the CAC portion has averaged about $27,500 annually for the past four years, split among all 58 counties), and reimbursements of 30 cents/line for electronic entry of pesticide use reporting data ($805,000 contracted in 2002-03). Some counties had been receiving payment for taking produce samples for residue testing (a total of approximately $125,000 was paid to participating counties annually for this service). However, budgetary cutbacks in 2002-03 forced DPR to reduce the number of residue samples taken and it no longer contracts with the counties for this service.

Costs

According to figures drawn from county financial statements and workload reports to DPR, in 2001 county biologists devoted 538,562 hours to pesticide enforcement activities, at a cost to all 58 counties totaling $31.7 million. *(See Appendix for breakdown of activities by category.)* Revenues from the State covered less than half the total costs of county programs in 2001:

State General Fund	$ 2,674,000
Mill assessment	10,672,000
Fees and penalties (assessed by CACs)	3,807,023
County general funds	14,550,988
Total:	**$ 31,704,011**

County Agricultural Commissioners fees are discussed in Chapter 7.

CHAPTER 6

DEPARTMENT OF PESTICIDE REGULATION COST ANALYSIS

IN THIS CHAPTER:

- Cost analysis 2000-01 fiscal year
- Budget and programmatic reductions since 2000-01

For this report, DPR undertook an activity-based costing study to first identify and then assign the Department's costs to specific activities. State agencies do not often report activity-based costs because California government uses a financial accounting system designed to track or report financial performance, which differs from activity costs. In addition, traditional financial accounting systems report costs by department organizational unit, not by activity or process performed.

Activity-based costing allows a department to gain clarity on how funds are used because it is based on the services a department provides. For governmental agencies that are primarily like the Department of Pesticide Regulation, it is difficult to allocate costs to a specific product. Instead the goal is to estimate the cost of providing a service. For DPR, the service might be processing a registration application, conducting an environmental assessment, or administering a grant program. The allocation provides important information to management and to stakeholders about how DPR uses its funds and what the actual costs are of providing various services. Knowing what it costs to operate a particular branch or division is not as helpful in evaluating programs as knowing how much it costs to process a new product registration package. Since most processes and activities within government agencies change only gradually, activity-based costing provides DPR with a tool to monitor activity costs over fiscal years.

Activities frequently cross standard organizational unit boundaries. This example illustrates how Activities 1, 3 and 4 shared by multiple branches while Activity 2 is performed within a single branch:

Example of Shared Responsibilities

	Activity 1	Activity 2	Activity 3	Activity 4
Registration Branch	**X**		**X**	
Medical Toxicology Branch	**X**	**X**		**X**
Worker Health and Safety Branch			**X**	**X**

The processes and activities represent what DPR does, not how DPR is organized. For example the pesticide registration *process* contains all the activities DPR undertakes to register a product. These include activities such as intake of the registration application, a technical evaluation of the application, a scientific evaluation of the product, and other activities. However, these activities are not totally contained within the Pesticide Registration Branch. For example, scientific evaluation of a product involves staff from the Worker Health and Safety and Medical Toxicology branches – and for environmental effects, from Environmental Monitoring Branch.

DEVELOPING THE COST ALLOCATION:: Under contract with DPR, the management analysis firm MGT of America identified DPR's processes and activities, in part by reviewing department statutes, regulations, publications and previous departmental workload studies; and conducting interviews. Eleven operational processes were identified (plus administrative services), and then broken into multiple activities. The list of processes and activities was distributed to DPR staff and managers for review and comment. *More detailed information on processes and activities is in the Appendix.*

The next step was to allocate DPR's costs to each process and activity. MGT based its study on actual 2000-01 costs, the most recently completed fiscal year at the time of the review.

Costs were compiled into two main categories: personal services and operating expenses and equipment (OE&E). Personal services represent employee salaries and benefits while OE&E is comprised of a variety of costs such as rent, equipment purchases, staff travel, contracts, and office supplies.

Different methodologies were used to allocate the two categories of costs. Personal services costs were allocated among processes and activities based on the amount of time DPR staff spend on that activity. To determine the appropriate allocation of total staff resources, MGT asked DPR staff to allocate their time to each process and activity performed in fiscal 2000-01.

The table below illustrates how two different staff members allocated their time among activities in the licensing and certification process. Because the licensing supervisor performs work pertaining to other processes, the example summarizes this time in a separate line item. In addition, staff is often assigned tasks that relate more to the overall administration of DPR than to a specific process. To accurately reflect administrative costs, staff was asked to allocate their time to an administration cost pool where applicable.

Example of Staff Time Allocation

Process	Activity	Personnel	
		Licensing Tech	*Licensing Supervisor*
Licensing and Certification			.25
	Exams	.20	.10
	Registration and exam scheduling	.25	
	Accreditation of courses	.15	
	New licenses	.20	
	Renewal of licenses	.10	
	License amendments	.05	
	Outreach		.20
Department administration		.05	.10
Other processes not shown in this example			.35
Total		1.0	1.0

Once DPR staff allocated their time, the personal services expenses for DPR were allocated across the processes and activities based on the staff time ratios. OE&E costs were allocated using one of two approaches depending on the individual expense line item. Staff levels drive some OE&E costs, such as building rent. Therefore, rent costs are allocated among the activities based on the staff allocation ratios obtained from the personal services allocation previously described.

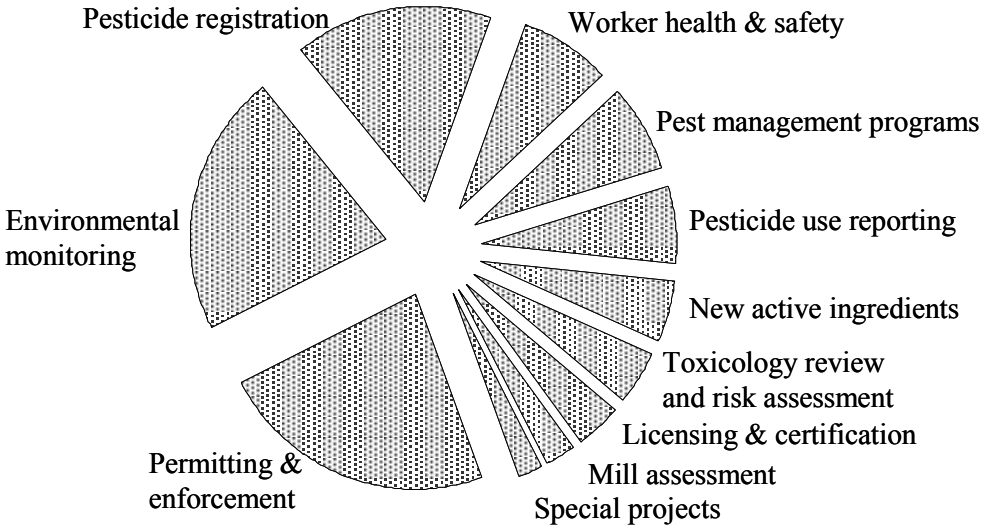
Other OE&E costs not associated with staffing levels, such as external contracts, were allocated based on information provided by DPR staff directly responsible for administering these costs. Similar to personal services, any OE&E costs that pertained to departmental administration were allocated to the administration cost pool.

The table below summarizes allocated costs for each process identified for DPR. Because administrative costs pertain to the department as a whole, MGT allocated the costs accumulated in the administration cost pool using a multi-step methodology. The administrative costs accumulated in the pool were allocated to the individual processes and activities based on their share of personal services costs.

For example, because Licensing and Certification process represented 4.4 percent of all DPR personal services costs, this process was allocated 4.4 percent of all DPR administration costs. *(Note: Excluded from the calculations were extraordinary expenses that were identified separately from overall DPR administration. An example of an extraordinary expense is the move into the new Cal-EPA building. Also note that the budget totals are for state operations costs only; monies transferred to the County Agricultural Commissioners for local operations have been excluded.)*

DPR Cost Analysis
FY 2000-01

Process categories	Allocated personal services	Allocated OE&E	Allocated expenses	Percent of total (all costs)
Pesticide registration	$ 5,255,317	$ 1,786,969	$ 7,042,286	16.5%
New active ingredients	1,600,464	634,560	2,235,024	5.2%
Licensing and certification	1,155,249	554,329	1,709,578	4.0%
Permitting and enforcement	4,120,931	5,702,227	9,823,159	23.0%
Pesticide use reporting	978,849	1,658,050	2,636,899	6.2%
Mill assessment	725,443	279,889	1,005,332	2.4%
Environmental monitoring	3,409,353	5,797,465	9,206,817	21.6%
Worker health and safety	1,749,591	1,448,939	3,198,530	7.5%
Special projects	509,818	362,069	871,888	2.0%
Pest management programs	1,187,665	1,940,821	3,128,486	7.3%
Toxicology review and risk assessment	1,322,978	503,867	1,826,845	4.3%
Total:	$ 22,015,658	$20,669,186	$ 42,684,844	100.0%



For more detailed information on the MGT analysis, see Appendix.

Budget and Programmatic Reductions Since 2000-01

The MGT analysis reflected operations in the 2000-01 fiscal year. Since that time, a State budgetary shortfall has resulted in significant reductions in DPR activities. For the 2001-02 fiscal year, DPR's budget was $63 million ($49.5 for State operations, the remainder providing partial funding of CAC operations). As a result of the State's fiscal crisis, the budget was reduced to $44.7 million for State operations (local assistance was not affected), a $4.8 million cut.

In 2002-03, a 21 percent reduction in General Fund support ($3 million) and declining revenues in the DPR Fund (a $3.4 million cut) resulted in a budget reduction to $41.2 million. The depth and breadth of these reductions meant that few programs could be spared. DPR placed the highest priority on programs mandated by law related to enforcement and protecting public health. DPR placed particular emphasis on preserving worker protection activities.

Reductions in monitoring programs forced an evaluation of the respective responsibility of DPR and of registrants to monitor problematic pesticides. As a consequence, DPR will focus its limited monitoring resources on situations in which a determination must be made whether an unacceptable risk exists that may require regulatory action. Monitoring programs designed to evaluate the effectiveness of mitigation measures or to determine the scope of unacceptable exposures will be primarily the responsibility of the registrants of the products in question. The Department will consider using its reevaluation authority to generate data needed to answer significant regulatory questions.

Summarizing the program changes as a result of the 2002-03 budget reductions:

Registration. A reduction of $990,000 resulted in the loss of 15 positions and commensurate activities. To continue its efforts to share registration workload on certain products with U.S. EPA, DPR eliminated a program that allowed companies to apply for registration of reduced-risk pesticides before the product was registered federally. A similar program for label amendments for microbial and biochemical products was also eliminated. DPR also reduced its review of toxicology data for adverse effects determinations.

Pest Management. Funding for the Pest Management Grants and Pest Management Alliance programs was eliminated ($1,478,000). Eight previously funded Alliance and 11 Grant projects are still active in 34 counties.

School IPM. Training of school personnel and surveying of pest management practices on school premises were scaled back ($50,000).

Produce Monitoring. The number of samples taken annually in this program to detect illegal residues in fresh produce was reduced from 8,000 samples to 3,600 samples (55 percent reduction). All sampling by CACs was eliminated. There were also significant reductions in laboratory services for food residue analysis. ($698,000)

RISK ASSESSMENTS/TOXIC AIR CONTAMINANT (TAC). The elimination of one-third of the scientists who conduct risk assessments ($408,000) necessitated an evaluation of how the Department is to carry out its risk assessment mandates. DPR's goals are to ensure that the remaining risk assessors can focus on pesticides posing the greatest risk, that DPR's science achieves the highest quality, and that processes become as efficient as possible. DPR will fulfill its risk assessment and peer review mandates by conducting a single aggregate risk assessment for each chemical. It will not prepare a scheduled number of specific TAC documents. Instead, based upon the results of the comprehensive risk assessment, DPR will decide whether to pursue the TAC review and listing process.

AIR PROGRAM. Reduction of $425,000 and four temporary positions equates to a loss of about 19 percent of this program. Sample collection and analysis will be cut by 60 percent. The reduction scales back efforts to develop analytical methods for fumigants and other pesticides and delays the initiation of mitigation for pesticides listed as toxic air contaminants. Environmental fate descriptions for risk assessments and conducting field studies to quantify public exposure to pesticides will be delayed.

To support the air program, DPR will place into the reevaluation process specific pesticides found in air, requiring registrants to provide necessary data. This may include data on the scope of contamination, how pesticides move to the air, development of potential mitigation measures, and demonstrating the effectiveness of mitigation measures.

GROUND WATER PROGRAM. Reduction of $368,000 and one temporary position represents 18 percent of the total resources in this program. This will result in 40 percent to 50 percent fewer samples collected and analyzed compared to the previous fiscal year. The reduction will hinder the effort to develop analytical methods, sample ground water for pesticides contamination, develop mitigation measures and demonstrate the effectiveness of mitigation measures. To support the ground water program, DPR will place into the reevaluation process specific pesticides found in ground water, requiring registrants to provide necessary data. This may include data on the scope of contamination, how pesticides move to ground water, development of potential mitigation measures, and demonstrating the effectiveness of mitigation measures.

SURFACE WATER PROGRAM. Reduction of $1,925,000, and three permanent and four temporary positions. The reduction represents 48 percent of the total resources allocated to this program. Specifically, the reductions:

- Eliminate $500,000 and one permanent position for conducting bioassessment studies in the San Joaquin River Delta region. Bioassessment studies would assess actual adverse effects of pesticides and provide a stronger scientific basis for regulatory actions to protect the environment. Total maximum daily loads (TMDLs) will continue to be developed based on chemical analyses and toxicity testing.

- Eliminate $820,000 in contracts that supported the Regional Water Quality Control Boards' monitoring activities for the development and implementation of TMDLs for pesticides.
- Reduce by 50 percent toxicity testing ($97,000)
- Reduce by 30 percent chemical analysis ($142,000)
- Reduce by 49 percent urban source identification and outreach activities ($159,000)

DPR will continue to support the development of TMDLs with its remaining resources and will place into the reevaluation process specific pesticides found in water, requiring registrants to provide necessary data. This may include data on the scope of contamination, how pesticides move to surface water, development of potential mitigation measures, and demonstrating the effectiveness of mitigation measures. The Regional Water Boards are under court-mandated timelines to develop and implement TMDLs. Reducing these contracts and personnel will moderate significantly DPR effort in support of the Regional Boards' activities to meet court mandates.

E-GOVERNMENT INITIATIVES. The loss of information technology support ($126,000 and two permanent positions) has delayed the development and deployment of improvements to the pesticide use reporting program, pesticide registration process, and online licensing transactions via the State's e-Business Office Web portal.

CHAPTER 7

DPR FUNDING

IN THIS CHAPTER:

- Evolution of program funding
- The DPR Fund
- The mill assessment
- Registration and licensing fees
- Fees levied by the County Agricultural Commissioners

Department of Pesticide Regulation operations are supported by various fund sources, including the General Fund, DPR Fund, Federal Trust Fund, and minor funds and reimbursements. For example, in the 2000-01 fiscal year, 28 percent of DPR's $60 million in expenditures was drawn from the General Fund, 63 percent from the DPR Fund (which includes mill assessment revenues and various fees), 4 percent from federal funds, and 5 percent from reimbursements and various minor funds (for example, the Environmental License Plate Fund).

Federal funding for State operations comes primarily through contracts with U.S. EPA and U.S. Department of Agriculture (USDA). These funds support the Department's activities that are performed jointly or on behalf of these federal agencies.

For example, under a cooperative agreement, U.S. EPA transfers grant funds to DPR to conduct pesticide enforcement and program development activities (including worker safety and endangered species protection, although the grant covers only a portion of enforcement costs in DPR's wide-ranging program). DPR is also reimbursed under a contract with USDA for collecting produce samples for the federal Pesticide Data Program.

EVOLUTION OF PROGRAM FUNDING

Pesticide and pest control legislation in the early years of the twentieth century was sponsored by the regulated industry and was clearly focused on preventing fraudulent practices and unfair competition. During these years, those activities clearly related to registration (and, in turn, product quality) were fully funded by industry fees, which were increased as necessary to keep the programs self-supporting.

When the Department's first produce testing was authorized by the Chemical Spray Residue Act of 1927, consumer and public health protection was incorporated into the Department's pesticide regulatory program. The residue monitoring program was initially supported entirely by the General Fund and in recent years continues to draw the majority of its support from the General Fund.

As the pesticide regulatory program grew through new statutory mandates, new mechanisms were created for funding industry-supported programs, the most noteworthy being establishment in 1971 of a mill assessment on pesticide sales.

A long-standing policy of CDFA (of which the pesticide regulatory program was a part until 1991) was that the General Fund should be used for programs that directly benefited the public or agriculture in general. The policy stated, programs that directly benefited an identifiable segment of industry "where such benefits can be accurately and fairly determined" should be supported by special charges or fees. Programs that benefited the public and provided direct benefits to an identifiable segment of agriculture were to be supported jointly by the General Fund and by charges to industry.

However, these distinctions were seldom easy to determine and quantify as programs grew in responsibility and complexity, and became blurred over the years. In any case, such departmental policies did not have the force of law, and it was ultimately the governor and the Legislature that determined the source and allocation of funding.

THE DPR FUND

The major source of non-General funds that support DPR operations are consolidated in the DPR Fund. Along with minor amounts from penalty assessments, earned interest, and other miscellaneous amounts, DPR Fund revenues consist of three primary sources:

- Annual certificates of product registration,
- Pesticide-related business and individual licenses, and
- Mill assessments, which comprise about 85 percent of fund revenues in a typical year.

DPR Fund Revenues 1992 – 2002

(except for mill rate, in thousands of dollars)

Fiscal year	Collected mill rate*	Mill assessment revenue	Value of mill	Licenses & fees	Other	Total
1992/93	21.325	24,670	1,213	3,131	1,449	29,250
1993/94	21.325	18,281	1,231	3,171	676	22,128
1994/95	21.325	29,667	1,366	3,452	940	34,059
1995/96	21.325	30,106	1,412	3,464	1,385	34,955
1996/97	21.325	31,073	1,456	3,527	1,845	36,445
1997/98	13.62	22,397	1,535	3,392	1,859	27,648
1998/99	15.15	23,766	1,587	3,393	1,350	28,509
1999/00	17.5	27,039	1,562	3,403	1,736	32,178
2000/01	17.5	34,550	2,067	3,558	2,461	40,569
2001/02	17.5	28,394	1,622	3,407	1,814	33,615

* The mill rate represents the portion of the fee collected for DPR and county operations. Excluded is the fee collected for disbursement to CDFA. The 1997/98 rate is an average; the rate was 21.325 for the first quarter, 9 mills for two quarters, and 15.15 for the final quarter. The mill assessment is collected quarterly, in arrears.

THE MILL ASSESSMENT

Discussions on the source of funding have taken on special urgency in budget years when General Fund shortfalls prompted gubernatorial administrations and the Legislature to look to special funds for assistance. For DPR, this circumstance led to a succession of increases in the mill assessment.

The mill assessment is collected quarterly in arrears, and is assessed at the point of first sale in California. For each dollar of sales of a pesticide product registered and labeled for use in California (including spray adjuvants), a mill rate is assessed. (One mill is equivalent to $0.001 or 1/10th of one cent.) The law requires those who are subject to the mill assessment to maintain records and be subject to audit by DPR. Products registered for reformulation (sold to someone who then repackages and registers the product, and pays the mill assessment on the sales of the reformulated product) or products registered by governmental agencies are exempt from the mill assessment.

Under the formula currently in statute, DPR distributes revenues generated from 6 mills to the CACs. State law limits expenditure of the remaining mill assessment revenues to the program areas authorized by Chapters 2, 3, and 3.5 of Division 7 of the Food and Agricultural Code. Those program areas include but are not limited to these broad activity categories: agricultural pest control research, pesticide registration, worker safety, collection of toxicology data and preparation of risk assessments, and regulation of the use of restricted materials and environmentally harmful materials.

Tracking the Mill Assessment (dates are calendar years)

Jan. 1972 June 1973	8 mills (Chapter 1367/Statutes of 1971)
July 1973 – June 1975	6 mills (regulatory decrease by CDFA)
July 1975 – Sept. 1989	8 mills (regulatory increase by CDFA)
Oct. 1989 – June 1990	9 mills (Ch. 1200/1989)[1]
July 1990 – June 1992	18 mills (Ch. 1679/1990)[2]
July 1992 – June 1997	21 mills, plus an additional mill to be divided between the CACs and CDFA (Ch. 706/1992)[3]
July 1997 – December 1997	9 mills (rate lowered because of sunset date)
Jan. 1998 – March 1999	15.15 mills plus an additional 3/4 mill on agricultural products only, going to CDFA (Ch. 695/1997)
April 1999 to date	17.5 mills plus an additional 3/4 mill on agricultural products only, going to CDFA (collection of additional 3/4 mill suspended by Governor during calendar 2002)
July 1, 2004	Absent passage of legislation, mill will sunsets to 9

[1]Ch. 1200/1989 was chaptered October 1, 1989, with an urgency clause making the new 9 mill rate effective that date. [2]Ch. 1679/1990 was chaptered September 30, 1990, with an urgency clause and specifying that the 18 mill rate was effective retroactive to July 1, 1990. [3]Ch. 706/1992 was chaptered September 15, 1992 with an urgency clause and specifying that the 21 mill (plus 1 additional mill split with CDFA) rate was effective retroactive to July 1, 1992.

1971: The mill assessment on pesticide sales was enacted in 1971 (SB 825, Chapter 1367). The rate was initially set at 8 mills ($0.008 cents on each dollar of pesticide sales), with County Agricultural Commissioners receiving 62.5 percent of these funds for local enforcement of pesticide laws.

1989: The Food Safety Act of 1989 (AB 2161, Chap. 1200) increased the assessment to 9 mills, the additional revenue to reimburse the counties for costs associated with implementation of full use reporting.

The legislation also created a Food Safety Account within the DPR Fund, supported by revenues collected from a surcharge on farm products and produce dealers (collected through CDFA) and a diversion of the food processor annual license fees (collected by the California Department of Health Services, DHS). Activities to be funded from this account included additional pesticide residue monitoring, review of pesticide residue analytical methods, research into alternative pest management practices, pesticide use reporting, and risk assessments on dietary exposure. (Legislation in 1997 repealed the produce dealer surcharge that had been collected by CDFA, and redirected the processor fees back to DHS, effective January 1, 1998. Legislation also provided that after

that date, sufficient monies were to be transferred annually from the DPR Fund to the Food Safety Account to cover program activities.)

1990: DPR lost General Fund revenues as part of the State's effort to address a statewide budget crisis. To compensate, the mill assessment was increased (AB 2419, Chap. 1679) from 9 to 18 mills, with counties receiving 31.25 percent of the revenues to maintain their proportion of funding (although revenues vary each year with pesticide sales). The legislation included a sunset clause to revert the mill assessment to 9 mills on July 1, 1992.

1992: California continued to face large deficits and the Legislature further reduced General Fund support and increased the mill assessment (SB 1850, Chap.706) to a total of 22 mills, with a sunset clause of July 1, 1997. Twenty-one mills continued to be divided between DPR and the counties (the counties receiving 26.79 percent of the base 21 mills, which was again proportionate to their revenue under the previous distribution formula).

The 22nd mill was divided between CDFA and the counties. The counties received 32.5 percent of the additional mill to help fund costs associated with collection of pesticide use data. CDFA received 67.5 percent of one mill to fund its Pesticide Consultation and Analysis Unit. (The unit was formed when the pesticide program was moved from CDFA to Cal/EPA, to implement a requirement that DPR consult with CDFA on certain pesticide-related regulatory actions.)

1993: Legislation (AB 770) closed a loophole in the collection of the mill assessment by identifying the person who first sold the pesticide into or within the State, whether the registrant, a pesticide broker, or a pesticide dealer, as the responsible party for paying the assessment.

1997: In July 1997, the sunset embodied in the 1992 mill reauthorization went into effect, and the mill rate reverted to 9 mills while legislative negotiations continued on a new mill bill.

A focus of legislative and stakeholder attention was the substantial reserve of nearly $18 million that had built up in the DPR Fund. The following factors contributed to an increased fund balance:

- *Mill Value.* From 1985 through 1987, the mill value grew slowly, and from 1988 through 1991, was essentially flat. (The mill value is how much is collected for each mill, that is, how much revenue is generated per each $0.001 fee on pesticides sales.) Revenue assumptions during 1992 mill negotiations and the 1992-93 and 1993-94 budget cycles appear to have projected little to no growth in the mill values. However, the actual mill value increased from 1.5 percent to 11 percent each fiscal year.

  Moreover, the Department – newly created in 1991 – did not have sufficient administrative and analytical capabilities to adequately track revenues and expenditures. As a result, Department officials were not aware that mill collections were increasing beyond projected amounts.

(The Department has authority to lower the mill rate below the maximum set in statute.)

- *Actual Expenditures.* It is generally assumed that departments will fully expend their authorized budgets. However, problems with budgetary controls also resulted in DPR underspending its legislative appropriations by a total savings of approximately $4.4 million from fiscal years 1992-93 through 1996-97.
- *Authorized Expenditures.* In 1991 legislative negotiations, the expenditure assumptions appear to have included a number of anticipated program enhancements for which budget change proposals were not requested in the years that followed.

In 1997, legislation (SB 1161, Chap. 695) reauthorized the mill assessment, capping the mill at 15.15 for from January 1998 through April 1, 1999, then raising it to a maximum of 17.5 mills. The CACs receive the revenue generated from 6 mills. The five-year sunset to 9 mills absent passage of reauthorizing legislation was maintained.

The 17.5-mill maximum was set artificially low to allow the Department to spend down the accumulated reserve. An Assembly staff analysis of the mill legislation noted, "The mill assessment levels…in SB 1161 are inadequate over the long term.…" The 1997 analysis concluded, "A level of 18.9 is needed to achieve long-term stable funding," but that the 17.5 level would "allow DPR to maintain its existing program while spending down the reserve gradually over a five-year period."

The legislation also mandated the Department to reduce the mill below 17.5 if program expenditures were met and an adequate reserve of $2.5 million as of 2001-02 was maintained. The bill also modified the three-fourths mill assessment that funds CDFA's pesticide consultation activities, imposing it only on agricultural and dual-use products.

2001: Another pending sunset to 9 mills prompted the 2001 passage of AB 780. The bill provided for a continuation of the mill assessment rate at 17.5 mills, plus the additional three-fourths mill on agricultural and dual-use products. (The collection of this three-fourths mill was suspended by the Governor in 2002 to assist the agricultural economy of the State.) The 17.5 ceiling on the mill assessment is authorized through June 30, 2004, when, absent enactment of legislation, it will again revert to 9 mills.

A General Fund appropriation of $7 million was added to the bill in the Senate Appropriations Committee to address a projected DPR budget shortfall in the 2002-03 fiscal year, but was deleted by the Governor at bill signing due to the state's accelerating budgetary crisis.

AB 780 also required the Department to analyze ongoing funding needs and potential efficiency improvement measures, and to prepare this report to the Legislature. It also clarified the law to make explicit that products purchased over the Internet or by telephone and shipped from out of state were also subject to the mill assessment.

Registration and Licensing Fees

DPR collects fees on applications to register products, annual renewals of registration, and for pesticide-related business licenses. These fees are set in statute and most have not been changed since the mid-1980s. Unlike several California State agencies (including some other Cal/EPA agencies), the Department lacks statutory authority to make inflationary adjustments.

Summary of DPR Fees (all fees are annual)	
Registration Fees	
Registering a product	$200
Section 18 emergency exemption from registration	No fee
Section 24c special local need registration	No fee
Research authorization	No fee
Label amendment	No fee
Pesticide-Related Business/Individual Licenses	
Qualified applicator license	$40 ($30 renewal)
Qualified applicator certificate	$25 ($15 renewal)
Pest control business, main office	$100
Business, branch office	$50
Business, maintenance gardener	$50
Pest control adviser	$50 ($40 renewal)
Pilot	$30 ($25 renewal)
Pesticide broker	$100
Branch office	$50
Pest control dealer	$100
Branch office	$50
Designated agent	$15
Private applicator certificate	No fee
Mill Assessment	
Levied on sale of pesticides for use in CA	$0.0175 per dollar of pesticide sales (sunsets to $0.009 on 7/1/04)

Pesticide Registration Fees

To sell pesticides for use in California, their manufacturers, importers, or dealers must obtain an annual certificate of registration from DPR. Registration fees are set in statute and were last increased in 1987. At that time, the Legislative Analyst Office recommended that registration revenues fully support the registration and evaluation function and to do so, the fee be increased to $600. Subsequent legislation increased the fee from $40 to $200.

Statute authorizes use of these fees for the same purposes as mill assessment revenues. There are approximately 12,000 actions per year to register or renew

pesticide products, and approximately $2.4 million is collected. According to the MGT of America analysis of the 2000-01 fiscal year, the registration program, including technical and scientific review by several DPR branches, costs about $9 million a year.

NO FEE FOR SOME SERVICES . There is no fee charged when a registrant requests an amendment to the label of a currently registered product (for example, adding a commodity to those already on the label, changing the formulation, or adding a target pest). Of the approximately 2,000 label amendments the Department processes each year, about half are nonsubstantive changes (for example, changing a company's phone number) and another 1,000 to 1,200 require scientific evaluation.

There is also no charge for applications for Section 18s and Section 24(c)s, which in effect are licenses for limited and selected pesticide uses. In 1999, 2000 and 2001, DPR issued 42, 34 and 33 Section 18s, respectively. These applications for a time-limited exemption from normal registration requirements take extensive scientific and technical review. The Department also issues 25 to 35 new Section 24cs annually.

DPR also does not charge for applications for research authorizations, many of which require scientific review. These field studies are typically small-scale experiments of new products or new uses of already registered products. Approximately 600 to 800 are issued yearly, and about two-thirds involve compounds already registered for other uses in California.

For comparison of DPR fees with those of other agencies, see Options section, below.

PESTICIDE-RELATED BUSINESS AND INDIVIDUAL LICENSE FEES

Statute requires various pesticide-related businesses and individuals (e.g., pest control business, maintenance gardener, qualified applicator, pest control adviser, agricultural pilot) to be licensed by DPR and establishes the rate and term of the various licenses. The annual fees range from $15 to $100. Most of the fees were last raised in 1986. (The exception is the pesticide broker license fee, which was established in 1997.)

Generally, licenses are issued for two years. Major exemptions from licensing requirements include: structural pest control businesses (licensed by the Structural Pest Control Board of the Department of Consumer Affairs); businesses performing preservative treatment of fabrics or structural materials; household or industrial sanitation services; treatment of seed when this activity is only incidental to the person's regular business; and removal of pests without the use of pesticides.

Annually, DPR administers approximately 9,000 examinations and issues or renews about 15,000 licenses. License fees may be used for the administration and enforcement of licensing activities, including the issuance of a license and

the regulation of the activities of those licensed. Revenues do not cover the costs of the program; according to the MGT of America analysis of 2000-01 department activities, the cost of the program is $1.7 million and revenue generated is approximately $1 million. In 2001-02, the program generated $931,723 in fees; costs to conduct the program were not available.

For comparison of DPR fees with those of other agencies, see Options section, below.

Fees levied by the County Agricultural Commissioners

By law, pest control advisors (PCAs) and pest control businesses must register in each county where they intend to conduct business. Most of the State's 58 counties charge fees for these registrations. The annual fee for landscape gardeners is limited by law to $25, and for PCAs to $10 for the first county and $5 for additional counties. According to a 2001 DPR survey, only a handful of counties do not charge fees. Most charged the maximum allowed by law for PCAs and maintenance gardeners. Pest control business registration fees ranged from $10 to $75, and averaged $35. These fees are retained by the CACs to support county programs.

PART FOUR

OPTIONS

In drafting AB 780, the Legislature requested that this report address five key issues, to be discussed in this section. Various options will be presented, along with comments from the stakeholder workgroups. Relevant comparisons with fees and revenue mechanisms of other agencies are also included

Chapter 8. Ongoing funding needs

- Funding pesticide regulation
- Workgroup comments
- Budget pressures, changing priorities

Chapter 9. Appropriate mix of general and special funds

- Tracking the funding mix
- Appropriately funding environmental programs
- LAO's recommendation for full industry funding
- Funding mix in other state agencies
- Funding mix in other state pesticide programs
- Workgroup comments on funding mix

Chapter 10. Fee-Based Revenue Generation

- Registration fees in California, in other states, and U.S. EPA
- Pesticide-related business and individual license fees
- Fee comparisons
- Impacts of fee increases
- Workgroup comments on fees
- Discussion of fee for restricted materials permit

Chapter 11. Differential mill assessment rate
The concept of a differential
Impacts of the mill assessment
Pesticide sales assessments in other states
Workgroup comments on the mill rate
Workgroup comments on a mill differential
Differential on restricted materials
About restricted materials

Chapter 12. Improving efficiency and effectiveness
Institutionalizing continuous improvement
Streamlining the registration process
Improving science
Enforcement and worker safety
Business process improvements
Services to licensees
Reducing risk
Summary

Chapter 13. Sunset and accountability
History and effects of the sunset
Workgroup comments
Accountability discussion

CHAPTER 8

ONGOING FUNDING NEEDS TO CARRY OUT MANDATES AND RESPONSIBILITIES

IN THIS CHAPTER:

- Funding pesticide regulation
- Workgroup comments
- Budget pressures, changing priorities

FUNDING PESTICIDE REGULATION

Pesticides differ from other toxins in that they are manufactured for their toxic properties to a pest, and must be introduced into the environment to accomplish their purpose, be that controlling weeds in an orchard, rodents in a home, or bacteria in a water supply. Therefore, regulation of pesticides does not focus solely on assessing toxicity but also on managing risk by controlling exposure. That is why local, state and federal pesticide programs focus on protecting people and the environment from harmful exposures to pesticides. If a pesticide cannot be used safely, then its use will be banned. But the initial step is to impose strict controls on the legal use of potential poisons.

With this level of responsibility comes a high degree of visibility and scrutiny, which is magnified in California – both the nation's most populous and the leading agricultural producer. Like most government agencies, DPR is constrained by limited resources and faces conflicting demands from stakeholders focused on particular concerns.

California growers take pride during national food scares in boasting of the protections afforded to consumers by the State's strict regulatory program; at the same time, they expect that the Department will not impose regulatory burdens that make it difficult to compete with farmers in other states and nations. Registrants want DPR to curtail activities that parallel or are beyond those conducted U.S. EPA. At a minimum, they believe that DPR's policies and processes should mirror U.S. EPA's to the greatest possible degree.

Public interest groups expect the Department to focus considerable resources on reducing the use of pesticides and to quickly eliminate from use entirely any pesticide that poses a possible hazard to health or the environment. The public expects unqualified assurances – something no science-based organization can deliver – that pesticides will never pose problems in their food or their backyards.

The people of California expect the Department to fully carry out every statutory mandate, even though sufficient resources may not have been provided in some instances. (When statutes are enacted that require an agency to take on new or greatly enhanced duties, it is often difficult to accurately project resources that will be needed to carry them out. In addition, some gubernatorial administrations have placed less priority on increasing regulatory resources, or have chosen to defer funding requests for programs which they did not advocate.)

Workgroup Comments

The question posed by this section of AB 780 prompted extensive discussion in the workgroup established to discuss it. (When the Department initially constituted workgroups to discuss specific points addressed in the legislation, none was established for this section since it was assumed that the topic would be adequately addressed in the MGT of America analysis. Subsequently, a workgroup was established in response to specific requests from members of the AB 780 subcommittee.) The viewpoints of the workgroup members were varied and diverse; with little agreement on what Department priorities should be.

Public-interest group representatives felt strongly that even at its funding peak (in 2000-01, the year before budgetary reductions), the Department was not adequately fulfilling its mandate to encourage the use of less risky pest management methods, or to prevent adverse impacts of pesticides on human health and the environment. Registrants similarly felt the Department had not done enough to increase the efficiency of the registration process, and representatives of production agriculture believed that strictures inherent in California's pesticide regulatory program put them at a competitive disadvantage.

None of these perspectives is new; they represent restatements of often-expressed positions. All representatives believed that in the current austere budgetary climate, the Department should reexamine its priorities and emphasize specifically mandated activities over discretionary ones.

Where they differed was in characterizing what is "mandated" and what "discretionary."

There was also some discussion on the possibility that cuts in DPR's budget would lead to traditional DPR activities being transferred to other state agencies. Some members felt that these agencies would not have DPR's pesticide-specific expertise, and that such transfers would dilute DPR's pesticide primacy. However, representatives of public-interest groups felt that the State Water

Resources Control Board and the Regional Water Boards might be better positioned to conduct many water monitoring activities. There was general agreement that without accompanying staffing and resources, there would be little incentive for other agencies to take on DPR's responsibilities.

Splitting DPR functions would also make it even more difficult for business to meet pesticide requirements, those members stated, since they would be dealing with a number of government entities.

(See also Appendix for other comments from workgroup members.)

BUDGET PRESSURES, CHANGING PRIORITIES

The MGT of America fiscal analysis described earlier in this report *(and in greater detail in the Appendix)* provided an excellent snapshot of Department operations in 2000-01. This was a significant budget year, as many long-neglected elements of the pesticide regulatory program (for example, surface water monitoring) had received substantial funding. A succession of budget cuts in the 2001-02 and 2002-03 fiscal years has made fulfilling basic mandates and responsibilities a challenge, but one the Department was attempting to meet by focusing on use enforcement and worker health and safety. Further reductions projected in the 2003-04 budget may well mean that even these mandates will not be met to the satisfaction of the Department, the Administration, the Legislature, or stakeholders. These budgetary impacts are discussed in more detail in Chapter 6.

Restoring Department resources and programs will be a high priority once the State's budgetary situation has improved. Taking current fiscal projections into account and the lengthy State budgetary processes, it can be expected it will be several years before State regulators can re-establish a pesticide regulatory program that can evaluate and register chemicals fully and efficiently, without unnecessary delays, and that is equipped to address the major environmental and health impacts posed by pesticide use.

At that point, some years in the future, the priorities and expectations of the gubernatorial administration or Legislature will inevitably differ. Each administration and Legislature determines what funding is available and how it should be allocated, and may well decide to de-emphasize (or even eliminate) current mandates, and may well decide to add new ones.

Nor can it be accurately predicted what new environmental and health challenges may be posed by pesticide use, or what opportunities for risk reduction may be opened up by scientific and technological advancements. We cannot know the challenges or opportunities that will present themselves – the problems yet unknown, and solutions not yet developed. Therefore, it is difficult if not impossible to project funding needs beyond those required to restore the program to a level where it can fully address its current mandates and responsibilities.

CHAPTER 9

APPROPRIATE MIX OF GENERAL AND SPECIAL FUNDS

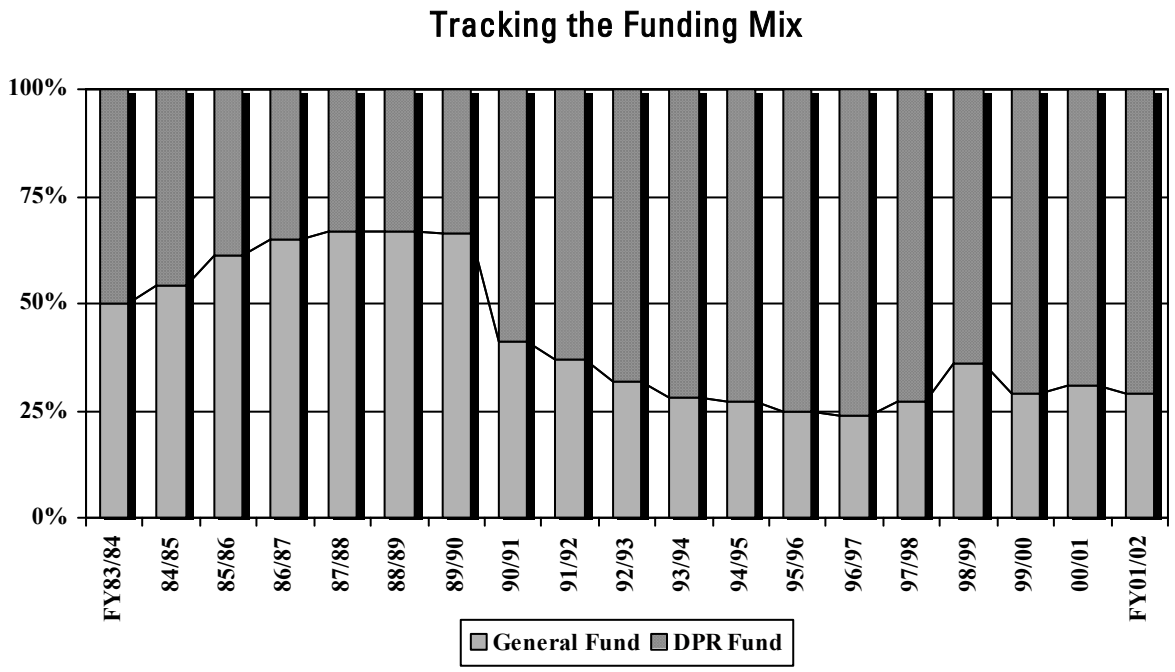
IN THIS CHAPTER:

- Tracking the funding mix
- Appropriately funding environmental programs
- LAO's recommendation for full industry funding
- Funding mix in other state agencies
- Funding mix in other state pesticide programs
- Workgroup comments on funding mix

The Department's special funding (the DPR Fund) is comprised primarily of revenues from the mill assessment on pesticide sales (about 85 percent), and from income from registration and licensing fees. The mill assessment, established in 1971, did not change until 1989. Since then, it has varied between 9 and 22 mills, and is currently 17.5 mills. DPR also charges fees for services to regulated entities – i.e., product registrations and licenses that enable businesses and individuals to conduct pesticide-related operations in California. Most of DPR's fees (which are set in statute) have not been increased since the mid-1980s. *(See next chapter for broader discussion of fees.)*

TRACKING THE FUNDING MIX

As the chart below illustrates, there has never been a "traditional" mix of funding. In the early 1980s, the split between the General Fund and special funds was about 50/50. As the Legislature added significant mandates and accompanying resources to the regulatory program, the Department's budget was increased, much of it from the General Fund. By the 1989-90 fiscal year, the General Fund comprised two-thirds of the pesticide regulatory program budget. However, in the years that followed, the Legislature increased the mill assessment proportionately more than it increased DPR's share of the General Fund, and as a result the mill assessment has accounted for a greater share of the Department's revenues. In 2000-01 (the year before the State's budget crisis prompted government-wide General Fund reductions), the DPR Fund bore 69 percent of program costs.



In summary, General Fund support has ranged from 24 percent (in FY 1996-97) to 67 percent (in both FY 1987-88 and 1988-89). (The chart illustrates relative percentages of support from the two main sources of DPR funding. Other sources of funding – federal funds, for example – have been excluded for purposes of the comparison in this narrative and in the chart above. They typically comprise less than 10 percent of DPR's budget.)

Appropriately Funding Environmental Programs

The appropriate sources of funding for environmental programs has been the subject of discussion and debate in the Legislature and elsewhere. In its 1992-93 analysis of the environmental and resource program budgets, the State Legislative Analyst's Office (LAO) recommended that the Legislature more fully explore what kind of programs or what specific programs are most appropriately supported by the General Fund, and which are best supported by special funds, and their current mix of support. The intent was to provide guidance to future legislators as they pursue statutory changes, and would also assist gubernatorial administrations in budgetary planning.

In elaborating on the importance of this endeavor, the LAO said that "the Legislature's choice of which general funding mechanism to choose for support of resources and environmental protection programs should not rest solely on the current availability of funds. Instead, the Legislature, as part of its annual deliberations on the budget, should assess the extent to which the goals of the programs which it has put in place are helped or hindered by the current way in which the programs are financed. The Legislature should start taking steps – through the budget and through enactment of any necessary legislation – to

switch program funding to the source –including the General Fund – that ultimately makes the most programmatic sense."

LAO's Recommendation For Full Industry Funding

In its 1992-93 analysis of DPR's budget, the LAO recommended that the pesticide regulatory program "be fully funded by industry," saying that "fees are an appropriate way of financing programs that prevent the use or degradation of *public* resources by *private* activities. [LAO emphasis] This is because the individuals, businesses, or industries that use or degrade a public resource are required to pay for minimizing the social costs imposed by their activity.

"The use of pesticides potentially can result in social costs by harming the public health and the environment," the LAO continued. "To minimize the social costs from the use of pesticides, DPR regulates the use of pesticides in the state. As a result, the costs of regulating the use of pesticides should appropriately be funded from regulatory fees, not from the General Fund, because it requires the people that potentially damage public resources to pay for regulating the risk that their activities impose on the general public."

The LAO recommended accomplishing this by increasing the rate from 18 mills to 33 mills, giving the Department authority to annually adjust the mill (with legislative concurrence) to cover increasing costs. Subsequent legislation (SB 1850) set the mill rate at 22 (with an additional mill to be split between the counties and CDFA).

In December 2002, in an analysis of the Governor's mid-year budget proposal, the LAO recommended that the Legislature "increase fees to fully cover the costs of (DPR's) programs," eliminating all General Fund support.

Others have also argued for full funding of environmental programs by fees. In 1997, when the mill assessment authorization was again being debated, the Environmental Health Policy Program (under the University of California Center for Occupational and Environmental Health) published a study, *Taxing Pesticides to Fund Environmental Protection and Integrated Pest Management.* The authors recommended increasing the mill fee to fully fund the pesticide regulatory program, and to expand investment in development of alternative pest management strategies.

The report noted, "California's regulatory controls on pesticide use are widely recognized to be more comprehensive and effective than current national regulation…. If the public and policy makers want to retain the level of environmental protection currently provided by state regulation, new sources of revenue will be required …

"It is no longer feasible to fund pesticide regulation and alternatives development from general revenue sources. California's tax base is eroding and voters are opposed to paying higher income, property, corporate, and sales taxes. Building on the 'polluter pays' principle that is embodied in most California

environmental statutes, taxing pesticide use is clearly the best available mechanism to fund regulatory programs and alternatives adoption," the report stated.

Funding Mix in Other State Agencies

The comparable funding mix of other Cal/EPA entities varies. The Office of Environmental Health Hazard Assessment is the only element of Cal/EPA with a consistently significant level of general funding, ranging from 65 to 80 percent. The remaining Cal/EPA entities typically have General Fund support of less than 40 percent, with the Water Board averaging less than 20 percent. (These figures are highly variable, however, as there are periodic, non-continuing General Fund appropriations for special programs, for example, the ARB's diesel engine retrofit program, or the Department of Toxic Substances brownfields cleanup program.)

In the Resources Agency, the funding split is also mixed. The Department of Forestry and Fire Protection typically receives more than 70 percent of its budget from the General Fund, and at the other end of the scale, the Department of Conservation about 5 percent. In recent years, the Department of Parks and Recreation and the Department of Water Resources have received from 5 to 54 percent of their support from the General Fund as their funding mix (and budget spending authority) has changed with special appropriations and the passage of parks and water bond measures.

Funding Mix in Other Pesticide Programs

In 1999, the American Association of Pesticide Control Officials (AAPCO) surveyed state pesticide programs on sources of funding. Although AAPCO's purpose was to ascertain the need for additional federal funding, the survey provides a snapshot of the mix of general versus special funds (usually in the form of fees) that support the nation's pesticide regulatory programs. Thirty-two states responded to the survey, including California.

Funding Mix in Other State Pesticide Programs

	Pop. in millions (U.S. rank)	**Value, ag products sold, in billions (U.S. rank)**	**% of U.S. ag pro-duction**	**1999 Pesticide program funding** (millions)	**Fed-eral funds (%)**	**Gen-eral fund (%)**	**Fees (%)**
California	33.9 (1)	23 (1)	11.7%	$47.8	2.2	25.7	72.1
Florida	16 (4)	6 (9)	3.1%	9.9	8.1	17.5	74.4
New York	19 (3)	2.9 (28)	1.5%	9.7	7.7	23.8	68.5
N. Carolina	8 (11)	7.7 (8)	3.9%	5.7	11.9	82.8	5.3
Wisconsin	5.4 (18)	5.6 (10)	2.8%	4.9	10.5	0	89.5
Wash.*	5.9 (15)	4.8 (15)	2.4%	4.1	*	9	91*
Minn.	4.9 (21)	8.3 (7)	4.2%	3.9	20.5	2.6	76.9
Texas	20.9 (2)	13.8 (2)	7%	3.7	22.4	77.6	0

Penn.	12.3 (6)	4 (19)	1.8%	3.6	21.4	0	78.6
Michigan	9.9 (8)	2.5 (21)	1.7%	3.3	19.1	59.3	21.6

Population figures, U.S. 2000 Census. Production values and rankings, 1997 USDA Census of Agriculture. AAPCO pesticide funding data, except Washington, excerpted from online summary state budget, the amount of fee revenue could not be separated from federal funds.

Workgroup Comments on Funding Mix

Most of the workgroup discussion on this topic centered on a 50/50 split between General and special funds that was advocated by industry representatives. While members from public interest groups did not express strong opposition to a 50/50 split, they greatly favored a higher proportion of costs being borne by industry, arguing that pesticide users should bear the costs of environmental and public health impacts of pesticides. Like public employee representatives, public interest groups believed that any funding solution should be sustainable and should focus on restoring Department functions reduced by recent budget cuts, and enhancing programs they believe are needed to deal with pesticide-related problems.

Representatives of production agriculture stated forcefully, on several occasions, that in 1991 (when budget shortfalls prompted a doubling of the mill fee from 9 to 18 mills), they received verbal commitments from legislators and the administration that the 70/30 special/general fund split would be temporary, until the State's economy recovered. These oral statements could not be verified for this report.

There was also substantial discussion on the possibly insurmountable obstacles in maintaining a fixed funding mix over time, no matter the ratio. From year to year, budget priorities may change, programs may be added or scaled back, and problems may arise that call for regulatory response. Locking in a fixed ratio decreases flexibility, members said. If a Governor or Legislature added new programs, thereby increasing the Department's need for funding, would the mill assessment automatically be increased?

Representatives of production agriculture and the registrant community said they would balk at paying for new additional programs that did not have their backing. As a counterpoint, public-interest group representatives said that it would be inherently unfair to ask the General Fund to wholly support new programs designed to correct health or environmental problems caused by pesticides.

Representatives of the employee unions felt the funding mix was less important than the level of funding, which should be sufficient to assure that program cutbacks do not continue to adversely impact activities the Department is mandated to conduct.

(See also Appendix for other comments from workgroup members.)

CHAPTER 10

FEE-BASED REVENUE GENERATION

IN THIS CHAPTER:

- Registration fees in California, in other states, and U.S. EPA
- Pesticide-related business and individual license fees
- Fee comparisons
- Impacts of fee increases
- Workgroup comments on fees
- Discussion of fee for restricted materials permit

The Department of Pesticide Regulation's fee structure is significantly lower than similar business operation fees charged by other state agencies, and typically are lower than pesticide regulatory programs in other states. DPR fees are set in statute and most have not been changed since the 1980s. DPR does not have authority to make inflationary adjustments.

REGISTRATION FEES

DPR charges $200 annually for pesticide product registration. It does not charge a fee for label amendments, issuing Section 18 and 24c special registrations, and research authorizations.

REGISTRATION FEES IN OTHER STATES. A number of other states charge pesticide registration fees. For example:

	Fee*		Fee*
Texas	$350*	Washington	$145
New York	$310*	Kentucky	$125
Florida	$250	Oregon	$160
California	**$200**	New Jersey	$250
Virginia	$160	Missouri	$15

* All fees annual except Texas and New York, which are biannual. New York charges a lower fee for small businesses.

No state has a comparable population or agricultural base to California's (the nation's leading agricultural state for more than a generation), or a comparable, scientifically-based pesticide regulatory program.

U.S. EPA Pesticide Fees

U.S. EPA does not charge registration fees. (Authority to do so was suspended in 1988 under amendments to FIFRA, the omnibus federal pesticide law). However, U.S. EPA does charge annual fees to *maintain* product registrations. The fee increases with the number of products registered. For example, in 2002 the maintenance fee for a single product was $1,225 a year, for 10 products, it totaled $23,275 a year, and for 23 to 50 products, $55,000 a year. The maximum fee is $95,000, for 67 or more products. The fee is adjusted periodically, based on the total that Congress decrees the agency should collect.

The top range of fees is reduced for small businesses, and U.S. EPA can waive or reduce the maintenance fees for minor-use products if it determines that "the fee would be likely to cause significant impact on the availability of the pesticide." (Minor-use products are typically used on small-acreage fruit, vegetable, and nut crops, and represent a minor market for pesticide sales.) U.S. EPA can also waive the maintenance fee for public health pesticides under specified circumstances.

U.S. EPA also charges fees of several thousand dollars when it establishes tolerances (maximum legal residue levels allowed on food) or when an exemption from tolerance is requested. The Food Quality Protection Act of 1996 authorized U.S. EPA to collect significantly higher tolerance fees to reflect additional workload resulting from that law. However, Congress has blocked the fee each year.

U.S. EPA's authority to set maintenance fees was to expire September 30, 2002. As of mid-November, it was in place as a result of a continuing budget resolution.

The President's proposed 2002-03 budget envisions U.S. EPA collecting up to $80 million per year from different pesticide-related fees. The existing maintenance fees would expire, while the increased tolerance fees and new registration fees would be enacted. The Senate's version of the budget proposes to extend the maintenance fee for another year, permitting U.S. EPA to collect up to $23.2 million while the issue of pesticide registration fees is worked out.

In late 2002, when this report was prepared, the federal budget had not been approved by Congress.

DPR Pesticide-Related Business and Individual License Fees

DPR's fees for various pesticide-related business and individual licenses range from $15 to $100, with most fees in the lower end of that range. *See chart summarizing fees, Chapter 7.* With the exception of the pesticide broker fee, all have been at their current level since 1986.

Number of DPR Licensees
(September 2002)

Individual licensees	
Qualified applicator certificate	10,806
Qualified applicator license	6,472
Pest control advisor	4,478
Journeyman pilot	404
Apprentice pilot	85
Dealer/designated agent	399
Total	22,644
Pesticide business licenses	
Pest control business (including main offices and branches	2,268
Maintenance gardener business	1,247
Pest control dealer	714
Pest control broker	26
Total	4,255

DPR also administers approximately 9,000 examinations a year. Currently, the licensing program is not self-supporting. According to the MGT of America fiscal analysis, in 2000-01, it cost $1.7 million to operate and generated $1.07 million in fees.

Fee Comparisons

DPR's business license and permit fees are significantly lower than those of other Cal/EPA entities or of other environmental agencies in the State. They are also lower than those charged by the Structural Pest Control Board.

Licensing Fees in Other States: In 2001, AAPCO conducted a survey of license and examination fees. Although there are a number of states with fees in the same range as California, there are several states with fees considerably higher. (Some states did not respond or did not provide information on all license categories.) Most states charged more for the individual license fees than California. DPR's annual fees for licenses issued to individuals (e.g., applicator, pilot) range from $15 to $30. Although a few states charge less, most charge $50 to $75, with New York, Minnesota, Ohio and Texas having fees of $100 or more. In addition, many states charge significantly less for licenses issued to individuals than for pesticide licenses associated with a business operation, with the latter as high as $250. (DPR's fees are $50 to $100.)

STRUCTURAL PEST CONTROL BOARD (SPCB): This unit of the Department of Consumer Affairs licenses businesses and individuals who conduct *structural* pest control. (DPR licenses companies and individuals who conduct pest control work in agriculture and in non-structural settings.) The SPCB fee structure differs in a variety of ways from DPR's. The most notable differences are:

- the fees are generally higher;
- the SPCB takes a broader fee-for-service approach, imposing charges for additional services (for example, change an address or request a duplicate license);
- individuals whose license allows them to operate a business supervising employees are charged higher fees; and
- the fee structure is in regulation, not statute, making it easier to change as costs increase.

It is not possible to compare all elements of the SPCB fee structure to DPR's because license categories differ. Where there are parallels, SPCB's fees tend to be higher. *(See chart, below.)* For example, SPCB's operator license is roughly analogous to DPR's qualified applicator license. Licensees in both instances have a higher level of responsibility, as they authorized to supervise the pest control operations of a business. SPCB also has a license category for field representatives, roughly similar to DPR's qualified applicator certificate (not license), except that SPCB requires more education for its field representatives. Both categories confer less responsibility, as they cannot supervise pest control operations of a business. An overview of fees (all annual, except where noted):

	SPCB fee	**DPR fee**		**SPCB fee**	**DPR fee**
SPCB operator/ DPR qualified applicator license	$150	$40/ $30 to renew	SPCB field rep/ DPR qualified applicator certificate	$30	$25/ $15 to renew
License examinations	$10/ $15/ $25	None for first try; retests are $5/$10/ $15	Becoming certified to teach continuing education classes	$50	None
Exams, additional license categories	$15	$5/$10/ $15			
Change of office address, manager, company officers, or insurance	$25/ each change	None	Certifying course content meets state cont. education requirements	$25	None
Company office registration (SPCB)/DPR business license	$120 (one-time)	$100 (annually)	Branch office registration	$60 one time	$50 annually
Duplicate license	$ 2	None	Change licensee name	$2	None

DEPARTMENT OF FISH AND GAME: The California Department of Fish and Game (DFG) charges up to $1,000 for commercial fishing licenses. The fee structure is complex and like several other agencies, DFG has authority to adjust certain fees based on inflationary increases. Example of fees for commercial fishing operations:

Fishing boat crew members	$50 per crew member
Lobster fishing boat crew members	$125 per crew member
Boat operator	$90
Boat registration	$200 to $400
Importers	$400
Processors	$400
Wholesalers	$270
Additional permits to catch specific species	$265 to $1000
Aquaculture license	$400
Commercial hunt club	$286.75
Fallow deer farming	$227.25

THE AIR RESOURCES BOARD administers the Air Pollution Control Fund, which provides about 17 percent of its budget. It is funded by penalties and by fees remitted from local air districts; fees levied on vehicle manufacturers based on the number of vehicles or engines manufactured for sale in California; and other sources.

LOCAL AIR DISTRICTS also impose a variety of fees. Anyone proposing to construct, modify or operate a facility or equipment that may emit pollutants from a stationary source into the air must first obtain an "authority to construct" from the local air district. Each air district sets its own filing fees for the authority-to-construct application. Applicants may expect to pay from $100 to $20,000 in major metropolitan areas. Air districts also charge a construction permit fee, generally greater than the filing fee, based on the size of the project.

In addition, most facilities that emit air pollutants must obtain an operating permit from the local air district. Each air district sets its own permit-to-operate fee schedule. The air district will generally charge the applicant a permit fee equal to that paid for the authority-to-construct, not including the initial filing fee. Fees range from $100 to $10,000 in major metropolitan areas. If the air district must collect samples to analyze the emission from any source, it will charge the applicant a fee to cover its expenses.

THE STATE WATER RESOURCES CONTROL BOARD (SWRCB) collects or administers a variety of fees from regulated industries. Annual waste discharge permit fees are assessed to businesses and other entities (for example, power plants, municipal wastewater treatment facilities) that discharge wastes that may affect California's surface and ground water.

Fee revenue and federal trust funds entirely support the costs of the programs of both the State and Regional Water Boards. The fees range from $200 to

$10,000 per year and are based on the threat to water quality, which includes total flow, volume, and area involved. Facilities such as animal feeding or holding operations, including dairy farms, are subject to a one-time $2,000 filing fee but are exempt from any annual fee.

Other fees administered by the SWRCB include those assessed on storm water discharge permits ($250 to $500) and underground storage tanks (an annual fee of 12 mills per gallon paid by those required to have a permit to own or operate an underground storage tank).

The SWRCB also administers a program to test and license tank testers, with a $100 application fee, $200 examination fee, and $600 for a three-year license.

THE INTEGRATED WASTE MANAGEMENT BOARD (IWMB) is funded by a variety of sources, including several fee programs. Each person who purchases a new tire must pay a recycling fee of $2 per tire. Waste disposal facilities pay a tipping fee of up to $1.40 per ton of solid waste disposed of at that facility.

THE DEPARTMENT OF TOXIC SUBSTANCES CONTROL (DTSC) charges permitting fees of from $6,238 to $446,413 to build or modify facilities that treat, store, or dispose of hazardous materials. Fees are based on the size of the facility and the kind of waste. Annual operating fees for these facilities range from $5,779 to $231,170.

In addition, there are fees charged to those who dispose of hazardous waste at an authorized facility of from $4.99 to $199.46 per ton. DTSC also charges an EPA ID verification fee of up to $5,000 to generators, haulers, or facilities that are required to have a DTSC or U.S. EPA identification number. Entities that generate five tons or more of hazardous waste each year are assessed fees ranging from $161 to $64,300. There are a variety of exemptions for all these fees for some government operations and some small businesses. DTSC has authority to adjust its fees annually to reflect inflationary changes.

IMPACTS OF FEE INCREASES

Fee increases could have a disproportionate impact on certain segments of the industry. An increase in licensing fees affects agriculture disproportionately, since DPR does not license structural pest control applicators (although many businesses licensed by DPR do non-agricultural work). In addition, some categories of licensees are in relatively low-paying occupations, for example, groundskeepers and landscape gardeners. These impacts could be mitigated by increasing license fees for business by a higher percentage than for individuals, and by instituting fees to those who request additional services (e.g., a duplicate license card, additional exam categories).

Increases in registration fees would disproportionately impact small businesses that have a single product or very few pesticide products registered, targeted at niche markets, with minimal annual sales. The Department has no data on how

many of the approximately 1,100 registrants are small businesses. New York's pesticide regulatory program has addressed this by reducing fees for small businesses with less than $3.5 million in annual gross sales.

If registrants pass along increased registration fees to buyers, the impacts would affect users of all products (whether agricultural or nonagricultural), with users of products with limited sales in California potentially affected most. The impact of even a registration fee of several hundred dollars a year would be essentially negligible for products with high-dollar or large-volume sales.

Registration fee increases may have a disproportionate impact on the makers of consumer products, many of which market products that are virtually identical except for scent or target pest. For example, a registrant may have a half-dozen bleaches or spray disinfectants that are formulated identically except for the added scent (for example, lemon, pine, "fresh," and unscented). Each product has a different label and so must be registered separately.

Workgroup Comments on Fees

There was mixed reaction in the workgroups to fee increases . The workgroups discussed increasing revenue from registration fees by establishing a range of fees, with applications of greater complexity (that is, those that imposed greater workload) paying proportionately more.

This kind of tiered system is used for setting the State water discharge fees. They are based on three factors: threat to water quality; the program under which the permit is being requested; and the complexity of the discharge. Complexity is given one of three rankings, with the most costly permits required of dischargers of "priority pollutants," those with numerous discharge points, or other factors. The staff of the area's Regional Board determines the rating, which the discharger can appeal to the Regional Board.

The workgroup discussed raising fees for more complex registration applications and label amendments. Rankings might be based on the toxicity of the product and number of studies that would have to be reviewed. For example, applications for products containing an active ingredient never registered in California require an additional battery of studies to be submitted. This demands additional staff resources for review and evaluation. At the opposite end of the workload scale are biochemical and microbial pesticide products, which generally have a lower level of toxicity and require fewer toxicology studies to be submitted with application for registration. (There are exceptions when the data show toxic effects that require further study.)

There is also no charge for applications for a Section 18 or Section 24c special registration and exemptions from registration, or for research authorizations, all of which require scientific and technical evaluation. Because of the complexity of many of these applications, they demand significant resources. The exemptions are for agricultural use of pesticides in emergency pest infestations, or in situations where there is a special local need not being met by any currently registered products. Section 18 and Section 24(c) registrations are

critically important to the agricultural economy of the State. This element of DPR's workload is oriented toward agriculture and is cited by the consumer products industry as a drain on Department resources disproportionate to the mill assessment revenues from agricultural pesticides.

Representatives of the consumer products industry felt that registration fee increases would be unfair unless coupled with a decrease in mill assessment on their category of products. (About half of mill revenues come from agricultural products, which under California legal definition includes commercial turf pesticides, and the remainder from nonagricultural products including consumer home-and-garden pesticides and institutional products such as sanitizers used for municipal water treatment.)

Some industry members did not feel that the registration program should be viewed as a fee-for-service program, arguing that it benefits not only registrants but also users of pesticides in agriculture, in homes and in industry. They added that from their perspective, there already was a fee on industry – the mill assessment – and that mill revenues were substantially greater than the $9 million in annual operating costs of the registration program.

However, representatives of public interest groups countered that the mill assessment is not a fee for service. It is designed to help the Department mitigate the harmful effects that pesticides can have on health and the environment, an embodiment of the "polluter pays" principle supported by the Davis Administration and by the Legislative Analyst's Office. Furthermore, they acknowledge that while there is a considerable difference between a pesticide – a legally sanctioned product – and the industrial waste emitted from a smokestack, this does not alter the detrimental impact that pesticides can have on the environment or public health. Core regulatory activities designed to mitigate these impacts – for example, protection of air and water, and worker protection – should be supported from the mill fee, they said. Other programs – they cited the Healthy Schools Act as an example – may be more appropriately supported by the General Fund.

Workgroup members generally felt that fee increases would be appropriate for services that consume a disproportionate share of Department resources in comparison to fee revenue. For example, the Department currently does not charge for label amendments, or for returning registration applications that are incomplete. Both activities can be costly to the Department.

There also was general workgroup support for making the licensing program entirely self-supporting, on a fee-for-service basis. However, a representative of the licensing industry felt that any fee increases should be tied to improvements in service.

(See also Appendix for other comments from workgroup members.)

Fee for Restricted Materials Permit

Another potential fee mechanism discussed in the workgroups was establishing a restricted materials permit fee, to be collected by County Agricultural Commissioners to help reimburse them for local enforcement costs. (A statutory change may be necessary to provide CACs clear authority to collect such a fee.) *For more information on restricted materials, and a discussion of a mill assessment differential for restricted materials, see end of Chapter 11.*

A workgroup member representing the California Agricultural Commissioners and Sealers Association (CACASA) said that such a fee had been discussed by the membership in general terms, although details and impacts have not been explored and no fee has ever been formally proposed either by the organization or by DPR. Possibilities discussed range from a single fee levied on all permitees to one set on a sliding scale. The latter scheme would be designed to avoid a disproportionate impact on smaller farming operations, and might be based on the number of application sites and the number of restricted materials on the permit. For example, a grower with one parcel applying for a permit for use of a single restricted pesticide would pay a nominal fee. A large farming operation with dozens or hundreds of sites and a large number of restricted pesticides would pay significantly more.

According to CAC reports to DPR on annual work hours devoted to pesticide enforcement, CAC staff expend more than 140,000 hours a year on activities related to restricted materials permits, including issuing permits, reviewing notices that must be submitted just before application, and conducting pre-application inspections, for a total annual cost of approximately $8.3 million. Specifically to cover these costs, the commissioners receive a total of $2.88 million annually from General Fund, an appropriation that has not changed since 1980. Remaining costs of administering the restricted materials permit program are covered by mill fee disbursements from DPR, county general funds, and other sources. *(See Chapter 6 for more information on CAC costs and funding.)*

There are more than 40,000 permits issued in a typical year. An across-the-board $100 fee would therefore generate approximately $4 million a year. It is impossible to estimate how much revenue a sliding-scale fee would generate without first determining how many permits are for multiple sites and chemicals, information that was not available for this report.

Workgroup Comments on Restricted Material Permit Fee

The option of charging fees for restricted material permits did not generate extensive discussion in the workgroups. However, public-interest group representatives generally supported the concept of charging more to users of pesticides more likely to cause harm to health or the environment, especially in consideration of the additional workload it poses for CACs. Representatives of production agriculture were opposed to the fee, feeling it would overburden an already distressed agricultural economy. CACASA has not taken a formal position. A workgroup CAC representative commented that one beneficial

byproduct of the restricted materials permit fee might be to prompt farmers to seek alternatives to restricted chemicals, and to reduce the number of restricted materials they seek permission to use. (Farmers often list every restricted material they feel they might use and thereby avoid having to amend the permit later in the year should unforeseen pest problems arise.)

(See also Appendix for other comments from workgroup members.)

CHAPTER 11

DIFFERENTIAL MILL ASSESSMENT RATE

IN THIS CHAPTER:

- The concept of a differential
- Impacts of the mill assessment
- Pesticide sales assessments in other states
- Workgroup comments on the mill rate
- Workgroup comments on a mill differential
- Differential on restricted materials
- About restricted materials

A differential mill rate (for example, a different rate for agricultural pesticides compared to other products) has been discussed for more than a decade by legislators and pesticide stakeholders in legislative hearings and in other forums. Various approaches have been proposed, including assessing a higher fee for agricultural products, or higher fees for more hazardous compounds. A number of conceptual arguments for tiered fees have been presented, but no consensus has been reached.

THE CONCEPT OF A DIFFERENTIAL

The 1997 report from UC's Environmental Health Policy Program (referenced above) examined a tiered fee based on classifying the hazard potential of pesticides. While "a risk-based tax on pesticides has clear conceptual advantages," the report noted, it "would be difficult to implement in the absence of a consensus about the relative hazards posed by different pesticides. If a major purpose of taxing pesticides is to reduce their adverse environmental health impacts, then it would be advantageous if the tax system created effective price signals that discourage use of the most damaging pesticides. However, defining this list of pesticides to be targeted with high taxes presents a challenging implementation problem. There are a variety of types of adverse environmental impacts caused by pesticide use, and no easy way to identify the worst pesticides overall. Pesticides rank very differently depending on the risk attribute chosen, and no single dimension is adequate to serve as the sole basis

for a risk-ranking system …(N)either the scientific nor pesticide stakeholder communities have reached a consensus on a list that classified pesticides into hazard categories."

Legislative advocates for the consumer products industry have long urged a differential mill, maintaining that it does not receive a proportionate share of services from DPR although nonagricultural products pay approximately half the mill revenues. One example frequently cited is restricted materials, virtually all of which are agricultural and whose use requires intensive oversight by DPR and the CACs. In addition, most of DPR's grants for alternative pest management projects have gone to agricultural projects. The industry also believes many environmental and health problems associated with pesticide use are the result of agricultural use of more highly toxic materials.

However, while consumer products are as a class inherently less toxic, it should be noted that residues of some home-and-garden chemicals have been detected in urban creeks and streams (although residential use of two of the most problematic chemicals – diazinon and chlorpyrifos – is being phased out). In addition, each year, more than half the reported cases of pesticide-related illness occur outside the agricultural setting, and the true proportion of non-agricultural illnesses is probably higher still.

DPR studies have shown that occupational exposures are more fully reported than non-occupational exposures, and that exposures to pesticides used in agriculture reach the surveillance program still more reliably. (There are several possible reasons for this: Physicians may think of pesticides more readily when agriculture is involved. Physicians in agricultural areas may have more familiarity with the legal mandate to report pesticide illnesses. Whether or not physicians report, agricultural commissioners often learn of agricultural mishaps.)

Overall, DPR's Pesticide Illness Surveillance Program appears to learn of effectively all episodes that expose groups of people, roughly half of all medical consultations about exposures related to agriculture, and perhaps one-quarter of non-agricultural occupational exposures. However, only a very small fraction of domestic exposures are reported. Therefore, these illnesses are not investigated and are seriously underrepresented in the database.

It is true that the most toxic pesticides are generally limited to use in agriculture. However, it is in this setting that DPR and the County Agricultural Commissioners have the strongest oversight and can impose requirements for appropriate equipment and training that can minimize hazards.

Although pesticide products used in homes and gardens are less toxic, misunderstandings and carelessness can lead to serious effects from pesticides with moderate inherent toxicity. Moreover, DPR and the County Agricultural Commissioners have a responsibility to identify and investigate health problems from pesticides wherever and however they occur.

Impacts of the Mill Assessment

The impact of the mill assessment on the cost of pesticides has not been extensively studied. For example, how much (if any) of the mill fee is reflected in the purchase price of pesticides has not been evaluated.

However, the effect of changes in the price of pesticides on use has been studied. The 1997 report from UC's Environmental Health Policy Program (referenced above) cited research that demonstrated varying impacts. "The greater the economic return from a pesticide, the less impact a price increase will have on its continued use. A pesticide tax would induce little use reduction where the pesticide cost comprises a relatively small proportion of total production costs, where no cost-effective substitutes are available, where the demand for the crop in the final market is not very sensitive to price (a large increase in prices causes only a small drop in quantity demanded by consumers), and where California producers have a strong competitive advantage over out-of-state producers. At the other end of the spectrum, use of a taxed pesticide would decline more where its cost is a relatively large proportion of the total cost of production, where cost-effective substitutes are available, where the final market is very sensitive to price, and where there is strong competition among producers."

The report also recommended that the mill fee should be increased to a level that not only fully supported the regulatory program but also provided greatly expanded funding to IPM research and development. A rate of 22 mills was in effect in 1997, when the UC study was released. This rate, the study concluded, "and any feasible rate increase, is likely to have only a small impact on overall agricultural costs. Farm expenditures on pesticides represent only a relatively small percentage of agricultural production costs: the report finds that California farm expenditures on pesticides (excluding application costs) range between 4 percent to 5 percent of total production costs. Even if California's mill assessment rate were increased fivefold to over 10 percent of the price of pesticides, total production costs would be increased by only several tenths of a percent. The specific impacts will very depending on the particular pesticides and crops. However, a fivefold increase in the current mill rate would not substantially alter production costs even for crops that use a large amount of pesticides. Costs to produce pesticide-intensive crops such as almonds and cotton would increase by less than 1 percent," the report concludes.

In the report's economic analysis, the authors stated that "agricultural demand for pesticides does not appear to be very sensitive to changes in price. Most research estimates the price elasticity for pesticides at between 0.1 and 0.5…. Thus a 10 percent increase in price (equivalent to almost a fivefold increase [in a 22 mill rate]) would reduce pesticide sales by between 1 and 5 percent. Even if a 100 percent tax were placed on a pesticide with low elasticity, sales would fall by only 10 percent. When California more than doubled the mill tax from 9 mills to 22 mills in 1992, there was no impact on pesticides sales."

According to the report, "Consumer prices for food would be unlikely to increase significantly as a result of an increase" in the mill assessment. "On-farm production costs represent only a small proportion of final market prices

(which are dominated by transportation, processing, and marketing costs). However, a pesticide tax may raise the price of some agricultural products in special circumstances. This will occur primarily where raising input costs increases production costs significantly and producers are able to pass these costs on to consumers. Price increases might also indirectly result from grower responses to a tax, if alternative pest control methods selected by growers to avoid the tax acre accompanied by lower crop yields," the analysis concluded.

Pesticide Sales Assessments in Other States

According to a 1999 Friends of the Earth study of farm chemical taxation practices, Minnesota and Iowa also levy assessments on pesticide sales. In Minnesota, a 0.6 percent surcharge is levied on pesticide sales, two-thirds of which goes towards pesticide regulatory program and the remainder to cleanup of pesticide spills. Under Iowa's 1987 Ground water Protection Act, pesticide dealers must pay an annual fee of one-tenth of one percent of gross sales in the state. (Dealers with less than $100,000 in gross sales pay less.) Up to $25 of each fee goes to administrative costs and the remainder is placed in a ground water protection fund.

Workgroup Comments on the Mill Rate and Differential

Discussion in this workgroup focused on both what the mill rate should be and whether different fees should be instituted for different types of pesticides.

Revenues raised by raising the mill rate would vary, depending on total pesticide sales since the fee is a percentage levied on sales. In recent years, each mill has generated approximately $1.6 million in revenue.

The following table is included as an example of how changes in the rate affect potential revenues). The current rate is 17.5.

How Changes in Mill Rate Affect Potential Revenue

Rate	10	15	20	25	30	35	40	45
Revenue*	$16M	$24M	$32M	$40M	$48M	$56M	$64M	$72M

*Revenue estimates are in million dollars, based on an assumed mill value of $1.6 million.

An Appropriate Mill Rate: In the mill rate discussions, representatives of production agriculture stated they would not support increasing a level more than the present 17.5. While a fee of less than two cents per dollar of sales does not represent a significant outlay for most growers, they said, it must be put in the context of the overall regulatory burden that they feel make California the most expensive state in which to farm. Moreover, these representatives continued, while registrants can add the fee to the price of pesticides, farmers in a competitive world marketplace cannot easily incorporate the surcharge in their own pricing. They believe that DPR's operational costs are excessively high

because of a series of unfunded programs mandated by the Legislature, and because of unnecessary duplication between DPR and U.S. EPA activities.

Representatives of the consumer products industry were also opposed to increasing the mill fee. Sales of nonagricultural products (of which consumer products are a portion) comprise approximately half of the mill revenues and representatives of this industry believe they receive a disproportionate level of service from DPR. Moreover, they believe their products are less hazardous with less impacts on health and the environment. They agreed with agricultural representatives, saying that in the aggregate, California regulatory fees are a significant economic burden. They stated that in the current budget crisis, they would not propose a reduced mill fee for consumer products because it could well result in further DPR budget reductions and accompanying reductions in registration services. However, they said this would not preclude them from pursuing a lower, differential fee for nonagricultural products in the future.

Representatives of public-interest groups felt that a rate increase to 22 mills or more would be appropriate. (Twenty-two mills was the rate in effect between 1992 and 1997.) Public-interest group representatives said a fee of 22 mills is justified because the Department's programs to protect health and safety would not be necessary if pesticides were not being used. They also reminded the workgroup that the 17.5 rate was set artificially low in 1996 to allow the Department to spend down a large reserve that had accumulated. With this done, they said, the rate should be increased to provide stable funding.

They also advocated a somewhat higher rate that would generate additional revenue to fund research into alternatives to more hazardous pesticides, and expansion of programs to protect the environment and for worker safety – programs they feel have never been adequately funded. They also said that the increased costs to farmers would be insignificant, compared to other farm inputs.

A representative of the Pacific Institute reiterated recommendations for a mill fee of 70, made in a 2002 Institute report, *Healthy, Fair and Profitable.* This would generate $120 million in revenue and eliminate the need for General Fund support. It would also "provide adequate, and perhaps sufficient, funding to dramatically increase promotion of 'clean' pest management technologies and techniques in all sectors of pesticide use, not just agriculture."

The Pacific Institute report maintains the essential fairness of an increased mill fee because of what it estimates are "over $2 billion of pesticide-related (health and environmental) costs not included in the price of pesticides but (which) are borne by the public, indirectly." The Institute believes there should be a tiered mill fee, with a lower rate for reduced-risk pesticides. The Institute also contends that farmers will benefit economically in the long term with the introduction of pest control systems that require fewer or no pesticide inputs.

MILL DIFFERENTIAL, AGRICULTURAL V. NON-AGRICULTURAL PRODUCTS*:* The number of agricultural versus nonagricultural products can be estimated based the differential mill assessment collected between 1997 and 2001. During this period, an additional, three-fourths mill was assessed on agricultural and dual-

use products, to support CDFA's pesticide consultation activities. Registrants were responsible for classifying their products as nonagricultural (and not subject to an additional fee), or as agricultural or dual use (and subject to the extra mill payment). Registrants of agricultural and dual-use products paid about 50 percent of the total mill fees during this period. However, because an additional assessment was imposed and registrants were responsible for classifying themselves appropriately, this could result in an underreporting of sales of agricultural and dual use products.

The workgroups spent considerable time discussing a differential mill and how it would be administered. It is currently not possible to determine precisely the percentage of mill assessment paid on sales of agricultural versus nonagricultural products. The Department's computer databases organize extensive information on sites where a pesticide may be used (for example, on certain commodities, or types of buildings). However, the database does not include information on whether a pesticide would be classified as agricultural or nonagricultural, under State criteria. (The definition of agricultural-use product under California law is broad, and includes not only pesticides used on agricultural commodities, but also those used on and in forests, ornamentals, turf, parks, waterways, golf courses, cemeteries, and rights-of-way. In addition, some products are dual-use, that is, they are labeled for use in both agricultural and non-agricultural settings.)

Adding this information would be highly resource-intensive, as it would require staff to analyze the labels of the more than 11,000 registered pesticide products to determine which included agricultural application sites, which non-agricultural, and which were dual use under California's broad definition of agricultural use.

The workgroups did not believe this to be a worthwhile investment of resources, in particular because of California's definition of agricultural use pesticide included more than production agriculture. Developing a definition solely for mill collection was deemed confusing and counterproductive.

Differential on Restricted Materials

Restricted materials are those pesticides that have a higher potential to have an adverse impact on health or the environment. *(See sidebar at end of chapter for more information on restricted materials.)*

In calendar 2001, dollar sales of restricted materials constituted approximately 18 percent of total pesticides sales. (Of $1.652 billion in total sales, $300.5 million were restricted materials.) About 8 percent of the total restricted material sales were non-agricultural products. Since the Department receives $0.0175 (17.5 mills) for each dollar of pesticide sales, in calendar 2001, restricted material sales generated approximately $5.3. million in mill revenue.

Restricted Materials Sales and Use

	Restricted lbs. reported used* *(% of total reported use)*	Total dollar sales of all pesticides	Total restricted material sales	% restricted material sales
1998	44,158,502 *(21)*	$1,529,280,882	$289,854,322	19.0%
1999	51,716,747 *(26)*	1,472,977,072	306,448,653	20.8%
2000	46,020,097 *(25)*	1,727,867,553	344,847,124	20.0%
2001	40,250,935 *(26)*	1,652,361,893	300,524,280	18.2%

*All agricultural use must be reported, as do professional applications in structural, residential, industrial and institutional settings, and on commercial turf and rights-of-way. Most restricted material use in nonagricultural settings is for structural fumigation. Exempt from the reporting requirements are nonprofessional institutional and home-and-garden use. There are very few restricted materials licensed for institutional use, and none available to consumers for home-and-garden use.

Between 1996 and 2001, restricted use pesticides represented between 20 and 26 percent of the pounds of pesticide reported used in production agriculture. Most of the restricted materials use is in agriculture, as this table indicates:

Restricted Material Reported Use, Agricultural and Other

	1996	1997	1998	1999	2000	2001*
Agriculture	36,079,250	42,373,742	39,041,013	46,051,457	41,350,603	35,289,455
Other	4,940,610	4,600,234	5,117,489	5,665,290	4,669,494	4,961,480
Total	41,019,861	46,972,976	44,158,502	51,716,747	46,020,097	40,250,935

**2001 figures are preliminary; not all of Kern County data were available at the time of publication.*

At the 2001 restricted sales volume of $300,524,280, each additional mill would have raised $300,524 in additional revenue.

Discussed at length by the workgroups, a restricted materials differential drew tentative support from several members, and no substantial opposition. A number of advantages of this differential were cited, among them:

- The Department's database already categorizes restricted materials, so no additional resources would be required to set up this differential (unlike a differential based on agricultural and non-agricultural products which are currently not separated in the database).
- A differential fee on all agricultural products would place an across-the-board financial burden on farmers. On the other hand, a differential fee limited to restricted materials would leave them free to choose other, non-restricted pesticides that were free from an extra fee.
- A differential *mill* fee would be easier to implement than a restricted materials *permit* fee. *(See Chapter10 for discussion of fee for restricted materials permits.)* A fee-collection mechanism already exists for the mill assessment. In addition, it is collected by one entity, DPR. A permit fee would have to be implemented in multiple locations, at the county level, and statutory changes may be needed to give the counties clear authority to collect a permit fee.
- Oversight of restricted material use generates substantial workload for the CACs and for the Department and as such, consumes a disproportionate share of resources. These pesticides are placed in restricted status because of their greater likelihood to cause health or

environmental problems. If these occur, they are more likely to be serious and prompt a regulatory response, including additional investigation, monitoring, and evaluation. One example is the Department's costly monitoring and mitigation development program for fumigants, all of which are restricted. Moreover, restricted materials require the counties to issue permits to users, to verify training, and to conduct inspections on a percentage of application sites.

- A restricted materials differential has conceptual advantages from a "polluter pays" perspective.

(See also Appendix for other comments from workgroup members.)

ABOUT RESTRICTED MATERIALS

Restricted pesticides are those DPR deems to present special hazards to health or the environment if misused. Before a farmer or pest control business can buy or use a restricted material, they must have had specified training in handling and using pesticides. In addition, they must obtain a permit from the County Agricultural Commissioner.

As part of the pesticide regulatory program's CEQA equivalency, the regulations require the CAC to determine if a substantial adverse health or environmental impact will result from the proposed use of a restricted material. If the CAC determines that this is likely, the commissioner may deny the permit or may issue it under the condition that site-specific use practices be followed (beyond the label and applicable regulations) to mitigate potentially adverse effects.

DPR – relying on its scientific evaluations of potential health and environmental impacts – provides commissioners with information in the form of suggested permit conditions. DPR's suggested permit conditions reflect minimum measures necessary to protect people and the environment. The commissioners use this information and their evaluation of local conditions to set site-specific limits on applications. To maintain CEQA equivalency, CACs must have flexibility to restrict use permits to local conditions at the time of the application. Therefore, the commissioners may follow the DPR-provided guidelines, or may structure their own use restrictions.

Permits to apply restricted materials are the functional equivalent of environmental impact reports; therefore, they must be site- and time-specific. The site can be clearly described when the permit is issued. However, since permits are typically issued for a 12-month period, and it is not possible to schedule the time of application months in advance, time-specificity is achieved by the grower filing a notice of intent (NOI) to apply the pesticide.

The NOI must be submitted to the commissioner at least 24 hours before the scheduled application. The notice must describe the site to be treated and the pesticides to be applied. It must also contain information on any changes in the environmental setting (for example, construction of residences or schools, changes in types of crops to be planted) that may have occurred since the permit was issued. This notice allows the commissioner an additional opportunity to review the planned application, and apply additional restrictions if needed. County staffs make pre-application inspections on at least 5 percent of the use sites identified by permits or notices of intent. These are primarily spot checks to ensure that information contained on the permit is accurate.

Both California and U.S. EPA maintain lists of restricted use pesticides (RUPs). All federally restricted materials are restricted in California as well. In addition, DPR maintains a list of California-only restricted materials. Use of all RUPs is subject to special training requirements. In addition, if a product is a California-restricted material, a permit must be obtained from the County Agricultural Commissioner before it can be purchased or used.

There are 596 pesticide products registered in California that are RUPs. (Not included in this figure are pesticides formulated as dusts, many of which are California RUPs but which for technical reasons are difficult to classify in the database.) Of these, 163 are federally restricted but are not listed in California regulation and therefore are not subject to the special statewide permitting requirements. (They may be subject to local restrictions, at the discretion of the County Agricultural Commissioner.) The remaining 433 are specifically named in regulation as subject to special statewide restrictions.

CHAPTER 12

IMPROVING EFFICIENCY AND EFFECTIVENESS

IN THIS CHAPTER:

Institutionalizing continuous improvement
Streamlining the registration process
Improving science
Enforcement and worker safety
Business process improvements
Services to licensees
Reducing risk
Summary

INSTITUTIONALIZING CONTINUOUS IMPROVEMENT

During the 1990s, the State's pesticide regulatory program transitioned from a division (within CDFA) to a department (under Cal/EPA.) The decade marked full implementation of legislative mandates imposed in the 1980s most notably, requirements to collect and evaluate health effects and ground water data on pesticides. The Department transformed itself to a fully functional environmental regulator, and addressed mandates and needs long neglected or underserved. New or enhanced programs included those for protection of surface water, analysis of the impact of pesticides in air, and full pesticide use reporting. Encouraging the development and use of reduced-risk pest management systems came to the forefront with creation of the Pest Management Grants and Pest Management Alliance programs, and expansion of efforts to facilitate greater use of reduced-risk methods in the State's schools. Another key initiative was improving operational efficiency and service to consumers and regulated industries.

Laws enacted in the early 1990s (SB 1082, 1993, and AB 2711, 1994) institutionalized continuous improvement in State government, a process enthusiastically embraced by the Department as it pursued an ambitious agenda

of self-examination and external consultation, institutionalizing transparent decisionmaking and reforming its operations and processes without compromising California's strict health and environmental standards. Less than a year after the Department was created, it asked regulatory analyst Dr. Charles Benbrook to conduct an in-depth critique with a focus on registration. The resulting report, *Challenge and Change: A Progressive Approach to Pesticide Regulation in California*, completed in 1993, helped focus DPR efforts to create a more efficient and effective registration process without compromising California's environmental standards.

In 1995, as part of a Cal/EPA Regulatory Improvement Initiative, DPR held facilitated focus group sessions to get input from DPR employees, County Agricultural Commissioners, and stakeholders from regulated industries and public interest groups. Their suggestions were gathered in a "strawman document" that was posted for comment on DPR's Web site and discussed at workshops in Fresno, Los Angeles and Sacramento. The 1995 document noted six goals "mentioned frequently enough [in the focus groups] to bear repeating." These goals provide relevant context for analyzing improvement efforts:

- Maintain pesticide regulatory program primacy.
- Maintain state-delegated authority to enforce FIFRA.
- Maintain CEQA equivalency.
- Improve communication and accountability.
- Avoid duplication.
- Maintain continuous improvement efforts.

With these outreach and improvement projects, DPR has pursued initiatives to streamline the registration process, enhance services to licensees, reengineer business processes, strengthen enforcement and compliance programs, focus resources on worker safety, and encourage the development and use of reduced-risk pest management systems.

Streamlining the Registration Process

The process of evaluating and registering pesticide products is particularly complex, involving interaction of several DPR branches and thousands of individuals and businesses. This core business activity is therefore a natural focus of process improvement efforts.

Removing bureaucratic obstacles: Over the past several years, the Department has streamlined the registration process. For example, the Registration Branch revamped internal procedures to make data review more efficient. For example, the Branch streamlined data intake, archiving, and circulation procedures, standardized formats for evaluation reports, and set up systems for simultaneous review of data packages by different scientific disciplines.

In 1996, DPR instituted a notification-only process similar to one in place at U.S. EPA. It allows registrants making certain minor revisions to their product

labels to simply notify DPR of the changes, bypassing the sometimes-cumbersome label amendment process. Of the 702 requests for label changes submitted between 1996 and 2001, 441 were accepted under notification, greatly expediting the approval process for registrants with minor label changes.

Working to eliminate bureaucratic requirements that were not necessary to protect health and the environment, DPR in 1999 began waiving the submission of some human health effects data and all data on fish and wildlife effects for certain low-risk pheromone products. In 2000, DPR adopted regulations exempting certain kinds of minimum-risk pesticides from registration requirements, paralleling an earlier U.S. EPA action. Most exempt chemicals are low-risk substances that have a wide range of other, nonpesticidal uses as foods, medicines, or household items.

To assist registrants in complying with application and data submission requirements, the Department appointed a Pesticide Registration Ombudsman and has conducted a number of training sessions. The Registration Branch also publishes an annual summary of regulatory changes to help keep registrants and data submitters current on regulation, policy and procedural changes.

DPR's weekly notices of proposed and final registration decisions are now posted on DPR's Web site, and are automatically emailed to interested persons. Also posted on the Web site and available for email delivery are the Department's regulatory notices to registrants and weekly report on materials entering scientific evaluation. In 2000, DPR also put its *Registration Desk Manual* online to assist applicants and others in understanding California's pesticide registration process. The manual, a mirror of the reference guide used by staff, describes types of registrations, data requirements, the scientific evaluation stations, and other steps in the process.

USING INFORMATION TECHNOLOGY TO IMPROVE REGISTRATION PROCESSES: In the mid-1990s, DPR's Pesticide Registration Branch developed Web-based access to the Department's product/label database, and established what is still the only online access to U.S. EPA's database of registered products. From 1997 through 2000, the Branch moved aggressively to use information technology to enhance operations. Accomplishments included significant improvements to the product licensing and renewal, document intake, chemical information, data index, and pesticide data circulation systems. The new systems provide better internal access and reporting capabilities, and streamline operations. In 1999, a Web-based tracking system for the 6,000-plus pesticide registration actions that DPR handles yearly was developed and installed on DPR's internal Home Page.

In 2000, DPR convened a business process workgroup. DPR Registration Branch staff met periodically with key registrants to exchange ideas for using information technology to improve how DPR conducts business. Their goal was to suggest ways to make the registration process and Department priorities and decisions more understandable. The Department has implemented several of the workgroup's recommendations and is considering others as it develops its multi-year operational priorities.

In mid-2003, the Registration Branch will launch a program to automatically notify registrants of the review status of their applications for registration. New transactions will automatically trigger e-mail messages to applicants detailing the status of submissions.

CONCURRENT APPLICATION FOR REGISTRATION: No pesticide can be used in California without registration from both U.S. EPA and DPR. (The exception is adjuvants, which must be registered in California but are exempt from federal registration requirements.)

Until the mid-1990s, the time lag between federal and state registration actions might be several months to two years or more, especially for new active ingredients. In response to recommendations in the *Challenge and Change* report (referenced earlier) and suggestions from registrants, DPR began allowing applications for certain products to be submitted before their federal registration. The intent was to begin accepting and reviewing an application while the application for federal registration was still going through the U.S. EPA review process.

In 1993, DPR began accepting concurrent applications for registration of microbial and biochemical pesticide products. DPR expanded the types of products accepted concurrently in 1994 to include those formally designated "reduced risk" by U.S. EPA. In 1994, DPR began accepting concurrent applications for registration of biochemical and microbial pesticide products, and those formally designated "reduced-risk" by U.S. EPA. In 1999, DPR added antimicrobial and public health protection products.

This policy was designed to reduce or eliminate the time lag between federal and state registration of a pesticide product and did not specifically address improving the efficiency of the registration process only the timing of the registration decision. Concurrent *submission* of applications for registration does not mean shared *review* of the applications. (U.S. EPA and DPR are only able to concurrently review/workshare on one or two new active ingredients per year. *See worksharing discussion, below.)* Accepting applications concurrently can result in increased overall workload compared to waiting to review an application until after a product is approved by U.S. EPA. For example, while U.S. EPA is evaluating the application, a registrant may make several revisions to the label – such things as changing the application rate or the interval that must elapse between when the pesticide is used and when workers may reenter the field. If DPR is considering the application concurrently, each amended label or submission of additional data must be processed, recorded into the database, and reviewed by DPR scientists. These and similar kinds of changes can add to the workload involved in processing a concurrently accepted application.

In the 1999-2000 fiscal year, the Legislature provided additional Registration Branch staffing and resources to handle the added workload. Since that time, positions in the Registration Branch have been reduced from a high of 98.5 positions to the current level of 80.5 positions. Budget shortfalls and staff cutbacks in 2002 forced the Department to suspend concurrent acceptance of applications for U.S. EPA-designated reduced-risk products. The Department is

still accepting concurrent applications for biochemical, microbial, antimicrobial, and public health protection products.

HARMONIZATION TO WORKSHARING WITH U.S. EPA: By expanding and enhancing worksharing efforts, DPR and U.S. EPA established up a framework for both agencies to improve the efficiency of their registration processes. The efforts to improve the state and federal registration process began in the early 1990s through what was then called a "harmonization" project. The initial approach was to bridge the methodologies that the two agencies follow in reviewing registration actions. Beyond reaching agreement on acute toxicity reviews, "harmonization" proved impractical and did not produce notable gains. However, one aspect that showed promise was collaborating on specific product registrations, particularly at the staff level. Beginning in 1999, DPR and U.S. EPA began a more structured partnership that includes three major elements: concurrent review, joint data review, and tolerance review for "minor crops" (the types of fruit, nut and vegetable crops that comprise the core of California's agricultural economy but do not represent major markets for pesticides).

In the concurrent review element, DPR and U.S. EPA share data evaluations to reduce time needed to evaluate applications for registration, and split the workload of evaluating data for a reduced-risk pesticide in the joint data review portion of the program.

The third workshare element focuses on tolerance review and has a third partner in Interregional Research Project No. 4 (IR-4), a U.S. Department of Agriculture program that helps develop and register pesticides for minor crops. IR-4 provides the residue data. The work in reviewing data and developing many of the scientific evaluations necessary to support tolerances begins in California and is completed at U.S. EPA, each agency focusing on their areas of expertise, achieving efficiencies based on operational transparency, cooperation and collaboration.

Between 1999 and 2001, DPR's data reviews expedited the federal registration of 15 pesticides on 85 California commodities representing more than $6.6 billion to the state's farm economy. Next is developing dietary risk evaluations for U.S. EPA to reduce further the time needed to register pesticides

IMPROVING SCIENCE

DPR is the nation's premier state pesticide regulatory agency. It is unique among states for its extensive, science-based program, charged with analyzing pesticide data and mitigating adverse effects. Only California routinely evaluates toxicology and other data as a requirement for pesticide registration, does comprehensive risk assessments, including assessment of dietary risk, and monitors residues in water, air, food, and in occupational settings.

DPR's staff of 380 includes scientists from a number of disciplines, including more than 30 toxicologists and more than 85 environmental scientists, including risk assessors and modelers. Long considered the peer of their colleagues at U.S.

EPA, DPR's scientists and technical experts also are on par with their counterparts in Canada and the European Union.

Working to maintain this world-class expertise, DPR scientists publish regularly in peer-reviewed journals and participate on a number of national and international scientific and technical policy development committees and advisory bodies, among them the FIFRA Scientific Advisory Panel on aggregate/cumulative exposure assessments; Risk Assessment and Methodology Steering Committee, International Life Sciences Institute (ILSI); Agricultural Reentry Task Force; Outdoor Residential Exposure Task Force; Agricultural Handlers Exposure Task Force; Co-operative Re-evaluation/Re-registration of Heavy Duty Wood Preservatives with Health Canada and USEPA; U.S. EPA Non-Dietary Exposure Task Force; Spray-Drift Task Force; and consultant to the U.S. EPA Science Advisory Board.

Participation on these workgroups and panels not only enhances the knowledge and scientific credentials of DPR staff but ensures that California's perspective is represented and considered in national and international decisionmaking.

COMPLETING PESTICIDE DATA COLLECTION: By 2000, DPR had completed collection of required health effects data on a priority list of 200 pesticides of highest health concern. The mandate to collect data came with the 1984 passage of the Birth Defect Prevention Act. DPR is also completing risk assessments and risk reduction measures on the highest-risk chemicals. Additionally, DPR completed collection of data (required by the Pesticide Contamination Prevention Act of 1985) designed to help predict which pesticides might pollute ground water.

MONITORING EXPOSURE: In the only program of its kind in the nation, DPR designs and conducts field studies to more accurately determine worker exposure to pesticides. From 1997 to 2001, DPR scientists collected foliage samples from various crops at the expiration of the restricted entry interval to verify that residues had degraded to the safe levels expected. This helps ensure that workers are not overexposed. (A restricted entry interval is the period that must elapse before workers can re-enter treated fields.) DPR monitored a wide range of crops and chemicals, including several highly toxic organophosphates, various fungicides, and some newer chemicals for which data may be limited.

DPR scientists are pioneers in the development of methods to monitor pesticide exposure, with particular attention to new exposure situations. DPR's risk assessors use the data to more accurately evaluate exposure, and this results in more finely tuned protection for workers and consumers. The studies also help determine if the protective measures on the product label are sufficient, or how they can be improved. For example, the studies can answer questions about what kinds of gloves offer the best protection to rose or strawberry harvesters, and whether the air filtering equipment on closed-cab tractors can effectively filter out pesticide particles.

PROTECTING GROUND WATER: DPR's goal is to eliminate the pollution of ground water by pesticides. Working with monitoring data collected over more than a decade, DPR scientists developed a method to profile the geographic

characteristics of areas vulnerable to ground water contamination by pesticides. Vulnerable areas have been delineated based on soil type and estimates of depth to ground water. A unique aspect of the program is that different routes to ground water have been discovered and have been related to the soil characteristics of vulnerable areas.

In 2003, DPR will propose regulations that will replace the current scattered groupings of pesticide management zones, where use of certain pesticides is prohibited or restricted, with broader geographical areas called ground water protection areas. Growers will be allowed to use pesticides in vulnerable areas but they must employ specific use practices designed to prevent contamination of ground water in a ground water protection area.

Another focus of concern has been chemigation, where chemicals are applied to soil through irrigation systems. U.S.EPA requires that pesticide labels describe the kind of equipment that must be installed on irrigation systems to prevent ground water contamination through backflow of pesticide-laden water into wells. DPR has been working with County Agricultural Commissioners to train growers and applicators on the specific requirements that protect the environment when adding pesticides to irrigation water. More than 300 people from 39 counties have attended the training sessions. Department staff has also developed a training manual and pamphlets in English and Spanish explaining how to use the chemigation safety devices designed to prevent ground water contamination.

ENFORCEMENT AND WORKER SAFETY

DPR manages the most comprehensive worker safety and pesticide enforcement program in the nation. California has had county-based pesticide enforcement agents – the County Agricultural Commissioners – working under the oversight of state regulators for more than 80 years.

The State's pioneering worker safety program, established in the 1970s, was the template for development of the federal Worker Protection Standard implemented nationally in the 1990s. DPR had continually fine-tuned its safety requirements; for example, in 1992, the Department strengthened its training requirements by setting up a hazard communication program requiring employers to maintain and make available to their employees written hazard communication materials, pesticide use reports, and material safety data sheets.

DPR also has long advocated preventing worker exposure by employing industrial hygiene principles, for example, requiring filtered-air enclosed cabs on tractors and closed pesticide mixing systems instead of protective clothing when possible.

TRACKING ENFORCEMENT ACTIONS: In 1997, the Legislature provided funding to create the Enforcement and Compliance Action Tracking System, a comprehensive database of compliance and enforcement actions on agricultural pesticide applicators, dealers, and advisers. The goal was to improve supervision of licensees, particularly those with multiple licenses who may also operate in

multiple counties. DPR expanded the database's scope beyond the initial four license categories to track enforcement and compliance actions in all nine licensing and certification programs managed by DPR's Enforcement Branch, in addition to the certified private applicator program administered by County Agricultural Commissioners. DPR is developing parameters to identify those license and certificate holders who have had enforcement and/or compliance actions meeting specific violation type/number criteria that would cause DPR to further investigate and possibly take action at the state level. The timing of such reports must be sufficiently well in advance of the license renewal process to assure due process. DPR has also made the violations database available on its Web site.

IMPROVING ENFORCEMENT AND COMPLIANCE: In 1997, the Department began a five-year survey of compliance assessment, performing on-site field evaluations of pesticide users to assess the degree of compliance with certain, pesticide use requirements. Enforcement Branch staff observed pesticide use in field situations and documented pesticide user compliance.

Compliance assessment and training evaluation of CAC have now been combined into the County Oversight Inspection Program. DPR and the CACs use information gathered to identify program strengths and weaknesses, plan focused inspections, design outreach programs, make programmatic and policy changes, and modify annual work plans. DPR also uses compliance assessment data to evaluate the effectiveness of laws, regulations, and label requirements. CACs also use the data to identify statewide trends, target enforcement activities, and evaluate county pesticide use enforcement priorities.

In 1999, the Department convened a team of Department staff and CAC representatives to conduct an in-depth assessment of its enforcement program. They reviewed the means used by the Department and the CACs to obtain compliance by the regulated community, and examined the kinds of enforcement actions taken by DPR and the CACs. As part of this effort, input was solicited from representatives of production agriculture, the pesticide industry, public interest groups, and farm labor and other interested parties.

The team's report recommended a variety of changes in policy, procedures, regulations, and statutes. The Department in early 2000 began implementing several action items, including expanding resources for compliance assessment and county supervision; formalizing a drift control initiative; institutionalizing enforcement planning and evaluation; and enhancing State and county authority. Fulfilling the challenges presented by the scope of the recommendations is expected to take a number of years.

FOCUSING ON WORKER SAFETY: Since 1999, DPR managers and technical experts have met regularly with public-interest and farm labor groups, County Agricultural Commissioners, state and local public health officials, migrant health clinic directors, and agricultural production representatives to get input on ways to enhance worker safety.

To follow up on the information gathered, the Department conducted formal studies of field posting (one of the ways workers are informed that pesticides

have been applied to a field), notification requirements in general, and the hazard communication rules (which require workers to be informed about the hazards of working with pesticides and symptoms of illness). As a result, DPR directed the County Agricultural Commissioners to make compliance with these requirements a priority, and to take strong enforcement action against violators.

DPR is also modifying its hazard communication handouts to make them more accessible and understandable to workers, and developed and published a series of outreach and compliance booklets for both workers and employers. In addition, the Department is revising its rules and regulations to put a system in place that ensures the right information gets to workers when and where they need it.

IMPROVING THE PESTICIDE ILLNESS SURVEILLANCE PROGRAM: DPR has a nationally recognized program to investigate, evaluate and track pesticide-related illnesses. All pesticide-related illnesses must be reported to the State. They are investigated by the County Agricultural Commissioners and the investigative reports analyzed by DPR technical staff. The information gathered helps the Department evaluate ways in which it can improve protections for workers, consumers, and others.

In 1998, DPR carried out a project to improve the amount and quality of data collected and entered into the illness database. Enhancements increased the amount of data collected – for example, more information on types of application equipment and kinds of exposure – organized it more logically. To help county staff improve their investigative techniques and reporting, staff from DPR's Enforcement and Worker Health and Safety Branches evaluated more than 300 investigative reports and in 2000 conducted training focused on their findings.

In a comprehensive study completed in 2001, Department scientists compared DPR data to other major sources of health data (hospital records and poison control records) to gauge the completeness of the illness database and to get a clearer picture of the health effects of pesticides in California. DPR scientists found that the data captures primarily occupational, agricultural cases while hospital and poison control records identified mostly non-occupational cases. They also found that the database better captured information on incidents in which more than one person was exposed, and had data on every episode in which more than three persons were exposed.

Previous reviews had found that the illness reporting system captures most types of occupational illness. DPR has been working on a variety of fronts for several years to improve illness reporting, and to educate farm workers on their right to seek medical attention. However, the recording of residential and intentional exposures continues to be a problem, especially since the State's fiscal crisis prompted a suspension of a DPR contract with the State's Poison Control Center to report pesticide illnesses on behalf of physicians. When fiscal resources become available, DPR will pursue funding for a continuing contractual relationship with the Poison Control Centers to share information on pesticide-related illnesses.

Business Process Improvements

Several recent efforts to improve major business functions illustrate how continuous improvement has become a fundamental characteristic of the Department.

Business process reengineering: In 2000, DPR contracted with the NewPoint Group a consulting firm to assist the Department with reengineering its business processes and establishing a virtual service deliver environment to support efficient and effective online interaction with stakeholders via the Internet. NewPoint met extensively with staff and stakeholders, focusing on improvements to five major DPR business processes: mill assessment, registration, pesticide use reporting, licensing, and permitting and enforcement.

By mid-2002, DPR had completed dozens of "quick-return" operational improvements, and others are scheduled to be completed by mid-2003. The NewPoint report (available on DPR's Web site) also details a number of major initiatives that will be studied for implementation as funding and resources become available.

More timely release of reports: Beginning in 1999, DPR made a commitment to stakeholders and concentrated its effort toward timely release of pesticide data and reports, including the annual summary of use report data, pesticide illness surveillance report, and the pesticide residue monitoring data summary. These data and reports are critical to many projects and programs pursued by universities, public interest groups, registrants, and production agriculture.

E-Government enhancements: The proliferation of data and the maturing electronic information age have dramatically increased the opportunities to improve government processes and provide greater access to data.

Staff access to the Department's product, chemistry, pesticide use, residue, and other databases via DPR's Intranet has resulted in significant increases in productivity. DPR's goal is to provide all Californians with this convenient access to regulatory information and give stakeholders the ability to transact their business with DPR via the Internet. Working toward this goal, DPR has enhanced its Web site by posting data on pesticide use, and residues in surface water and in fresh produce. Query-based access to these databases is next, with the pesticide use data the first to be available in user-customized formats, early in 2003.

Improving pesticide use reporting: DPR is working with industry to develop electronic data entry systems that can be used by growers and pest control business. A Web-based system is in the planning stages. In addition, the pesticide use reporting database was modified in the fall of 1999 to improve the accuracy of the data and streamline the electronic reporting process. In May 2000, the Department sponsored a conference on use report data quality, utilization, and access, drawing participants from government, academia, industry, and public interest groups.

To improve the precision of use report site identifications, DPR in 1994 began working with the County Agricultural Commissioners on standardizing site identification statewide. By 2002, more than half of the counties were using standardized geographic identification system (GIS) technology to map coordinates of field sites, and DPR is providing technical expertise and support to the evolving county-level systems. In 2001, DPR began assisting the counties in updating the DOS-based technology of their permit systems, which will enhance efficiency of the permitting process and – because this database helps validate pesticide use reports – increase the accuracy of reporting

To improve access to pesticide use data, since 2000 DPR has posted data summaries online and began offering the entire use reporting database (typically a 650-megabyte file) on CD-ROM. In 2003, the California Pesticide Information Portal (CalPIP) will go online, giving visitors to DPR's Web site the ability to conduct customized searches of the world's best and most extensive database of pesticide use information.

RESIDUE PROGRAM BUSINESS PROCESS EVALUATION: DPR's Enforcement Branch has evaluated the feasibility of integrating elements of the produce sampling and data collection activities of the state-mandated residue monitoring program with similar work done for U.S. Department of Agriculture's Pesticide Data Program. A project to integrate a number of business processes common to both programs is expected to begin next year. Eventually, the project will include adoption of electronic clipboard technology, automation and integration of site selection, and residue database enhancements.

ADMINISTRATION OF THE MILL ASSESSMENT BUSINESS FUNCTION: In 1999, DPR formed an internal task force to address concerns about illegal Internet and mail-order pesticide sales. AB 780 clarified DPR's authority over Internet pesticide sales and in 2003, the Department will establish a new branch in the Division of Administrative Services responsible for all mill assessment activities. This new branch will incorporate the mill assessment collection and disbursement functions of the Enforcement Branch, the field investigations of unregistered sales done now by the Enforcement Branch, and the auditing functions of the Audits Branch. The branch will also have the responsibility for analysis of mill revenues, and will work closely with the legal office, the Enforcement Branch and the Registration Branch in carrying out its duties.

SERVICES TO LICENSEES

DPR licenses and certifies more than 27,500 individuals and businesses that apply, sell, or recommend pesticides in California, including pest control advisers, pest control businesses and applicators, agricultural aircraft pilots, and pesticide dealers and brokers.

LICENSING AND CERTIFICATION PROGRAM ENHANCEMENTS: A new database application was created that allows program staff to post examination scores in minutes rather than days. Data entry time was reduced from 10 hours to 10 minutes, and scores are now available on DPR's Web site, greatly improving service to applicants and reducing the number of phone calls normally

associated with the examination process. DPR staff also worked with the University of California and licensees to develop new study guides and examination materials for licensee candidates, including a new manual on integrated pest management and a completely updated laws and regulations study guide. Both are posted online.

DPR also began posting lists of all valid business and individual license and certificate holders to the Web site. Using the lists (which are updated weekly), county enforcement programs, licensees, and consumers can determine the license status of pest control applicators, businesses, and advisers.

ONLINE COUNTY REGISTRATION: In November 2001, DPR and the State's Enterprise Business Office launched a pilot project for online county registration of pest control licensees. Beginning in six counties, it was expanded to thirteen in July 2002. Licensed pilots, pest control businesses, maintenance gardeners, and agricultural pest control advisers must register annually with the agricultural commissioner in each county where they do business. Being able to initiate this electronically enhances the quality, timeliness and efficiency of the process.

Pest control businesses, maintenance gardeners, pilots, and advisers in other counties – about 8,500 in all – can also access information about their own licensing and enforcement histories. In addition, for the first time County Agricultural Commissioners can review license status and statewide enforcement histories for virtually all licensees, as well as conduct an online dialogue with applicants to expedite the registration process.

ONLINE LICENSE RENEWAL. DPR is working with the Department of General Services' e-Business Office to assess DPR's readiness to deploy an online license renewal system. Working through the California Portal Project, it would allow licensees to view and update contact information; view licenses and certificates they hold and their renewal status; update continuing education hours; and calculate and pay fees. DPR's objective is to reduce the time for preparation, submission, and processing of renewal applications for its more than 27,000 licensees. Fiscal constraints are expected to impose significant delays on full development of this system.

REDUCING RISK

In the 1990s, DPR embarked on a number of initiatives to encourage the development and use of reduced-risk pest management systems and to reduce the use of high-hazard pesticides.

One of the first steps was to commission a comprehensive examination of the Department to develop a pest management strategy. The strategy, completed in 1995, defined DPR's approach to incorporating a reduced-risk pest management philosophy throughout the regulatory program, and providing leadership in working cooperatives with other interested parties to promote research, education, and demonstration of reduced-risk pest management practices.

Among other activities initiated as a follow-up, DPR conducted workshops to address regulatory barriers to reduced-risk pest management strategies, adopted regulations requiring continuing education in reduced-risk pest management for pest control advisers, and prioritized risk assessments to provide a more effective process for new, reduced-risk active ingredients.

ENCOURAGING AND REWARDING REDUCED-RISK PEST MANAGEMENT: In 1994, DPR established an awards program to recognize growers and other leaders in alternative methods of pest management. Since then, DPR has given out more than 70 IPM Innovator Awards to honor California organizations that emphasize pest prevention, favor least-hazardous pest control, and share their successful strategies with others. The awards provide rare public recognition to groups and individuals who are quietly revolutionizing pest management through their efforts to reduce risks associated with pesticide use. (IPM – integrated pest management – works with nature to encourage beneficial plants and animals while making it difficult for pests to survive.)

DPR's Pest Management Grants and Pest Management Alliances are two other key elements in the Department's comprehensive, reduced-risk pest management strategy aimed at homes, schools, farms, and the environment. The State's fiscal crisis has forced a suspension of the Grants and Alliance programs effective in fiscal 2002-03. Nonetheless, the two grant programs have accumulated substantial accomplishments since they were instituted in 1996 and 1998. More than $8 million has gone to 241 projects ranging from small-scale applied research and demonstration to large-scale regional or statewide implementation of multi-disciplinary reduced-risk practices.

SCHOOL IPM: Since the early 1990s, DPR has worked with school districts to make IPM – integrated pest management – the preferred way to manage pests in classrooms, cafeterias, and playgrounds. School IPM picked up momentum in 2000, when Governor Davis made it part of his Children's Health Initiative and approved specific funding as part of DPR's budget. Later that year, the Legislature passed the Healthy Schools Act. It codified DPR's voluntary school IPM program and added new Education Code requirements, including advance notification and posting provisions.

In response to the Healthy Schools Act, DPR staffers are conducting training sessions around the state for school administrators, maintenance supervisors, and others so they can offer IPM instruction to their employees. Despite budget cutbacks in 2002, DPR will continue to offer IPM training to interested school districts, though at a slower pace.

To make school IPM information more accessible statewide, DPR created the School IPM Web site, www.schoolIPM.info. It features sample letters that can be used to notify parents about prospective pesticide applications, least-toxic pest management alternatives, and other information, including a 424 -page model school IPM guidebook to give school districts step-by-step instructions on introducing an IPM program.

NEXT STEPS

The Department has made extraordinary efforts to reach out to the regulated community to get input on ways that the program could be improved, and has worked diligently over the past decade to enhance the efficiency and effectiveness of its operations. At the same time, the Department has made its processes and decisionmaking more transparent and understandable.

Much of what remains to be accomplished will require additional funding, statutory changes, or both. Of particular interest to the regulated community, academic stakeholders, and public interest groups, are the changes DPR envisions in information technology, particularly projects to link its extensive pesticides databases and making them accessible via the Web. DPR's vision is a pesticide program that gives immediate and reliable access to information and services so people can conveniently conduct their business with DPR and our local partners, the County Agricultural Commissioners. The NewPoint Group's report outlined strategies that would enable DPR to improve its delivery of services using cost-effective and accessible information technology. However, implementing these strategies – and gaining the efficiencies they will bring – requires sufficient resources be made available. Even when the current fiscal emergency is over, the priority will be to restore core regulatory programs. When that is done, the Department will turn toward implementing new programs designed to enhance and improve services.

Note: Much of the discussion that occurred in the workgroup assigned this topic was on the improvements described above. For other workgroup comments on this topic, please see Appendix.

CHAPTER 13

SUNSET AND ACCOUNTABILITY

IN THIS CHAPTER:

- History and effects of the sunset
- Workgroup comments
- Accountability discussion

HISTORY AND EFFECTS OF THE SUNSET

When the mill fee was enacted in 1971, it did not have an expiration date. The first sunset was placed on the fee in 1990 legislation. At that time, the rate was increased from 8 to 9 mills from July 1, 1990 to June 30, 1992. In 1992, the rate was doubled to 18 mills, with a sunset that required that the fee return to 9 mills, absent reauthorization within five years. New legislation was not passed by the sunset date and on July 1, 1997, the rate fell to 9 mills. Later that year, AB 1161 reestablished a higher mill rate, which went into effect in January 1998. That legislation, too, had a five-year sunset, which was extended with the 2001 passage of AB 780 to July 1, 2004.

During AB 780 deliberations, legislators made it clear that they would prefer that the mill assessment issue not resurface at such close intervals. For the Department as well, having to argue its case for continued funding of core regulatory programs every few years is a considerable drain on resources. In the year or two before the sunset, the Department may be reluctant to embark on new programs that would likely require additional resource commitments, not knowing what funding will be available. This affects the ability of the Department to deal with emerging issues, and to conduct long-term planning.

The instability also adversely impacts staff morale: there have been instances where employees – concerned about the impact of the sunset on programs – transferred to another agency with more stable funding, resulting in a loss to the Department of critical expertise and experience, with an accompanying impact on efficiency. The sunset also infringes on the constitutional role of the Executive Branch, which through budget process determines priorities and programs to be funded through available and appropriate resources.

In addition, DPR is unusual in that its special funds are drawn almost entirely from a single fee (unlike several Cal/EPA entities, which have multiple special fund sources), and it is one that expires periodically (no other Cal/EPA entity has a sunset on major special funds).

WORKGROUP COMMENTS

Although there was no specific workgroup created for this topic, it was addressed at a number of workgroup meetings. Representatives of industry were very supportive of a sunset, believing that it is necessary to control costs imposed on their constituencies. Employee representatives were opposed to the sunset, because of its adverse impacts on programs and employee morale. Public interest group representatives were neutral on the inclusions of a sunset, saying that the sunset did serve a function in prompting a periodic examination of the Department activities and priorities but adding that it should be lengthened. There was limited discussion of sunsets of varying lengths – 10 years, for example – and of having the mill fee sunset to zero rather than 9 mills, which most workgroup members did not support.

WORKGROUP ACCOUNTABILITY DISCUSSION: The workgroups also discussed accountability measures. There was general agreement that there were few activities conducted by the Department that lent themselves to easy "widget-like" measurement. The Department has long realized this and since it was established as an independent entity in 1991, has made extraordinary efforts to involve stakeholders in programmatic planning. The 1996 Regulatory Reform Initiative, 1999 Enforcement Initiative, and the 2000 NewPoint Group consultant's study of e-government improvements, discussed above, are three noteworthy examples.

There are other examples. In 1999, DPR's Pesticide Registration Branch formed a joint DPR-industry workgroup to develop ways to improve the Department's business practices, working as partners, not adversaries. To improve interaction with stakeholders, DPR also restructured a longstanding advisory committee (the Pesticide Registration and Evaluation Committee) and reestablished one that had been dormant for years (the Agricultural Pest Control Advisory Committee, which advises the Department on licensing and certification activities).

DPR also expanded the role and membership of its Pest Management Advisory Committee. It now advises the Department on regulatory development and reform initiatives, as well as program implementation and evolving public policy issues. The membership was broadened to include not only a wide representation from regulated industries but also a larger voice from public-interest, consumer, and farm labor groups.

Since 1999, DPR managers and technical experts have met regularly with representatives of public-interest and farm labor groups, growers, and County Agricultural Commissioners to get input on ways to improve worker safety. To address areas of concern, the Department conducted formal studies of field posting, notification requirements in general; and the hazard communication rules. As a result, DPR directed the County Agricultural Commissioners to make compliance with these requirements a priority, and to take strong enforcement action against violators. DPR is also revising the rules and regulations to address the problems.

In addition, the Department publishes a “priorities and accomplishments” report twice a year, focusing on plans for the upcoming six months; and an annual *Progress Report* designed in part to put the Department’s goals and priorities in perspective on a program-wide basis. It also participates in the State’s EPIC project. EPIC, short for Environmental Protection Indicators for California, is a collaborative project of Cal/EPA, the Resources Agency, and the Department of Health Services, and has developed measurements that track California's environmental conditions over time. Moreover, annual legislative budget hearings provide an effective – and appropriate – venue for stakeholders to raise concerns about the Department’s performance.

APPENDICES

- Text of Assembly Bill 780
- County Pesticide Program Hours and Costs
- Excerpts from fiscal analysis of DPR operations 2000-01
- Comment letters received from members of the AB 780 subcommittee on the draft of this report:
  - California Farm Bureau Association
  - California Plant Health Association
  - California Rural Legal Assistance Foundation (CRLAF)
  - CRLAF, United Farm Workers, CALPIRG, California League of Conservation Voters, California Teamsters Public Affairs Council
  - Consumer Specialty Products Association
  - Pacific Institute

Assembly Bill No. 780

CHAPTER 523

An act to amend Sections 12841 and 12841.1 of, and to add Section 12847.5 to, the Food and Agricultural Code, relating to pesticides, and making an appropriation therefor.

[Approved by Governor October 4, 2001. Filed with Secretary of State October 5, 2001.]

I am signing Assembly Bill 780. However, due to the rapid decline in our economy and a budget shortfall of $1.1 billion in the first three months of this fiscal year alone, I have no choice but to oppose additional General Fund spending. As a result, I am deleting the $7 million General Fund appropriation contained in the bill.

This bill reauthorizes the pesticide mil assessment, which funds approximately 60% of the programmatic activity of the Department of Pesticide Regulation (DPR), at the current rate of 17.5 mils until June 30, 2004. I am signing this bill to maintain the current assessment rate because it does not add an additional financial burden on the regulated industries. Moreover, this action will avoid the potential for the assessment to revert to an unacceptably low level in future years.

However, I am directing the Director of DPR to bring the stakeholders together as specified by this bill to help craft a longer term solution for support of the Department.

I am committed to the continuation of California's nationally renowned pesticide regulatory program and the benefits it provides. Because DPR has sufficient funding for the current fiscal year, I believe that addressing the funding shortfall for the 2002–03 fiscal year during the budget development process would be more appropriate.

GRAY DAVIS, Governor

LEGISLATIVE COUNSEL'S DIGEST

AB 780, Thomson. Pesticide mill assessments.

(1) Until January 1, 2003, existing law requires every registrant of a pesticide product to pay the Director of Pesticide Regulation an assessment of 17.5 mills per dollar of sales for all sales by that person of registered pesticides for use in this state. Existing law further provides that effective January 1, 2003, and thereafter, the mill assessment rate would be reduced to 9 mills per dollar of sales, for all sales of pesticide for use in this state.

This bill would specify that sales made electronically, telephonically, or by other means that result in a pesticide product being shipped to or used in the state are sales. This bill would also provide that the mill assessment rate commencing January 1, 2003, to June 30, 2004, shall be 17.5 mills per dollar of sales and commencing July 1, 2004, and thereafter, shall be 9 mills per dollar of sales for all sales of registered pesticides for use in this state.

(2) Existing law also allows the Director of Pesticide Regulation, until January 1, 2003, to collect an additional mill assessment, as specified, to fund provision of pesticide consultation to the Department of Pesticide Regulation by the Department of Food and Agriculture.

This bill would allow the director to continue to collect this assessment, as specified, until July 1, 2004.

(3) The bill would also require the Department of Pesticide Regulation, with assistance from a subcommittee of the Pest Management Advisory Committee containing members from specified groups or agencies, to prepare an analysis and report on specified issues to the Legislature by January 1, 2003, the purpose of which would be to recommend a funding solution for the department that would eliminate the need to reauthorize the mill assessment on pesticide and consumer product sales every 5 years and that would preserve the accountability of the department to the entities contributing to the financing of the department.

(4) This bill would appropriate $7,000,000 from the General Fund to the Department of Pesticide Regulation to implement the provisions of this act.

Appropriation: yes.

The people of the State of California do enact as follows:

SECTION 1. Section 12841 of the Food and Agricultural Code is amended to read:

12841. (a) It is unlawful for any person to sell for use in this state any pesticide products that have been registered by the director for which the mill assessment established by this article, and the regulations adopted pursuant to it, is not paid at the times specified in Section 12843.

(b) Except as provided in subdivision (d), every person who sells for use in this state a pesticide product that has been registered by the director shall pay to the director the applicable assessment. Those sales expressly include all sales made electronically, telephonically, or by any other means that result in a pesticide product being shipped to or used in this state. There is a rebuttable presumption that pesticide products that are sold or distributed into or within this state by any person are sold or distributed for use in this state.

(c) (1) Upon application of any registrant, the director shall determine whether a fertilizer or paper product is used as a carrier for a pesticide, and is sold in combination, and whether the mill assessment under this article shall be on the pesticide value only, when the product is designed, developed, and manufactured, and sold primarily for other than a pesticide use. If the director finds that the combination product has

such a major component and is designed, developed, manufactured, and sold primarily for other than a pesticide use, the assessment provided by this article shall be paid on the equivalent percentage of the sales price of the active ingredients of the pesticide product. The director shall establish this percentage of the sales price. The percentage shall be the ratio of that portion of the sales price attributable to the pesticide portion to the total sales price of the combination product.

(2) For purposes of this section, ''active ingredient'' means any active ingredient that is required to be stated on the label on any registered pesticide under Section 12883.

(d) Assessments provided for in this article for sales of registered pesticides that are sold for use in this state shall be paid by the registrant except as follows:

(1) In those cases where the registrant did not first sell the pesticide into or within this state or have actual knowledge, at the time of its sale, that the pesticide would be sold for use in this state, the assessment shall be paid by the licensed pesticide broker, licensed pest control dealer, or other person who first sold the pesticide for use in this state.

(2) No person is required to pay an assessment on registered products that are labeled only for use in further manufacturing or formulating of pesticides.

(e) It has been and continues to be the intent of the Legislature that this division requires the department to register all pesticides prior to their sale for use in this state and, except as otherwise provided by law, requires the department to regulate and control the use of pesticides in accordance with this division. Except as provided in Section 12841.1, the department shall continue to collect the assessment as provided in this article at the same rate on all registered agricultural and registered nonagricultural pesticides.

(f) (1) Except as provided in paragraph (2), the mill assessment shall be paid at the following rates per dollar of sales for all sales of pesticides for use in this state:

(A) From January 1, 1998, to March 31, 1999, inclusive, the rate shall be 15.15 mills ($0.01515) plus any additional assessment authorized by Section 12841.1.

(B) From April 1, 1999, to December 31, 2002, inclusive, the rate shall be 17.5 mills ($0.0175) plus any additional assessment authorized by Section 12841.1.

(C) From January 1, 2003, to June 30, 2004, inclusive, the rate shall be 17.5 mills ($0.0175).

(D) Effective July 1, 2004, and thereafter, the rate shall be 9 mills ($0.009).

(2) In order to avoid the accumulation of unneeded revenues, the director shall, by the adoption of an emergency regulation pursuant to subdivision (h), set the mill assessment rate lower than the rate established in subparagraphs (A), (B), and (C) of paragraph (1) if the director determines that program needs are adequately met and that revenues collected would result in a prudent reserve in the Department of Pesticide Regulation Fund by the end of the 2001–02 fiscal year greater than two million five hundred thousand dollars ($2,500,000). In no case shall the lower mill rate result in revenues that are less than the revenues that the rate established in subparagraphs (A) and (B) of paragraph (1) would generate if each mill was valued at one million four hundred eighty-two thousand dollars ($1,482,000).

(g) The revenue collected from the mill assessment shall be deposited in the Department of Pesticide Regulation Fund, except as specified in Section 12841.1, and distributed as follows:

(1) Notwithstanding Sections 2282 and 12784, the director shall pay, in accordance with the criteria set forth in Section 12844, the following amounts to the counties as reimbursement for costs incurred by the counties in the administration and enforcement of Division 6 (commencing with Section 11401), this chapter, Chapter 3 (commencing with Section 14001), Chapter 3.4 (commencing with Section 14090), and Chapter 3.5 (commencing with Section 14101):

(A) From January 1, 1998, to March 31, 1998, inclusive, five-eighths of the money received during that period pursuant to this section.

(B) Beginning April 1, 1998, and thereafter, an amount equal to the revenue derived from 6 mills ($0.006) per dollar of sales for all pesticide sales for use in this state.

(2) All funds not otherwise distributed pursuant to this subdivision shall remain in the Department of Pesticide Regulation Fund and shall be available for expenditure, upon appropriation, to support the department's operations.

(h) Any change to the mill assessment rate established pursuant to subparagraphs (A) and (B) of paragraph (1) of subdivision (f) shall be made by the adoption of an emergency regulation and shall be determined by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health, safety, and general welfare. Thereafter, the regulations shall be adopted pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code and shall remain in effect for no more than four consecutive quarters. The director shall make available to the public, at least 60 days prior to the adoption of an emergency regulation establishing a new rate, the information upon which the director has calculated the new rate.

SEC. 2. Section 12841.1 of the Food and Agricultural Code is amended to read:

12841.1. (a) Between January 1, 1998, and July 1, 2004, the director may collect an assessment, in addition to the mill assessment collected pursuant to Section 12841, for all pesticide sales for use in this state except for sales for use in this state of those nonagricultural pesticides labeled only for home, industrial, or institutional use. The director may only collect up to an additional three-fourths mill ($0.00075) per dollar of sales, as part of the rate established pursuant to Section 12841, if necessary to fund, or augment the funding for, an appropriation to the Department of Food and Agriculture to provide pesticide consultation to the department pursuant to Section 11454.2. The necessity of this additional assessment shall be determined by the Secretary of Food and Agriculture, in consultation with the director, on an annual basis after consideration of all other revenue sources, including any reserves, which may be appropriated for this purpose. The secretary's written determination, including a request for a specified additional assessment and the basis for that request, shall be provided to the department in a time and manner prescribed by the director to fulfill the requirements of Section 12841, and shall be made available to the public pursuant to the requirements of subparagraph (B) of paragraph (1) of subdivision (f) of Section 12841.

(b) The revenue collected pursuant to this section shall be deposited monthly in a separate account in the Department of Food and Agriculture Fund. These revenues shall be expended only by the Department of Food and Agriculture, upon appropriation, to provide consultation to the department pursuant to Section 11454.2. No funds may be expended prior to the execution of a memorandum of understanding pursuant to subdivision (b) of Section 11454.2. The consultation activities to be undertaken by the Department of Food and Agriculture are limited solely to those specifically authorized in the memorandum of understanding executed pursuant to Section 11454.2. These funds may not be expended for scientific risk assessment activities. The department shall be reimbursed from the Department of Food and Agriculture Fund for revenue collection activities.

(c) This section shall remain in effect only until July 1, 2004, and as of that date is repealed, unless a later enacted statute, that is enacted before July 1, 2004, deletes or extends that date.

SEC. 3. Section 12847.5 is added to the Food and Agricultural Code, to read:

12847.5. (a) (1) By January 1, 2003, the Department of Pesticide Regulation shall analyze the following issues and report its findings to the Legislature:

(A) The ongoing funding needs for the department to allow it to carry out its responsibilities under state statutes and regulations.

(B) The appropriate mix of general funds and special funds, including the pesticide mill assessment, to support the department's activities.

(C) The appropriate rate of mill assessment on pesticide products that are used primarily in agricultural production and the appropriate rate for all other pesticide products.

(D) Potential improvements in the efficiency of the department's operations, including mechanisms to share workload with the United States Environmental Protection Agency associated with requests to register pesticides for use in California.

(2) The purpose of the analysis and report shall be to recommend a funding solution for the department that will eliminate the need to reauthorize the mill assessment on pesticide and consumer product sales every five years and that will preserve the accountability of the department to the entities contributing to the financing of the department.

(b) (1) To assist the department in preparing the analysis and report required under subdivision (a), the director shall convene a subcommittee of the Pest Management Advisory Committee by January 1, 2002, that shall include, but shall not be limited to, at least two representatives from the following groups or agencies:

(A) Department of Pesticide Regulation.

(B) Environmental advocates.

(C) Consumer product manufacturers.

(D) Pesticide manufacturers.

(E) Production agriculture.

(F) Farm labor advocates.

(G) Employee unions.

(H) County agriculture commissioners.

(I) Public health advocates.

(J) Legislative staff from policy or fiscal committees.

(2) The subcommittee shall be disbanded upon completion of the report required in subdivision (a).

SEC. 4. The sum of seven million dollars ($7,000,000) is hereby appropriated from the General Fund to the Department of Pesticide Regulation to implement this act.

O

County Pesticide Program Hours and Cost 2001

Program	Hours Licensed Staff	Hourly Rate	Cost
		58.87	$58.87
Pesticide Use Monitoring	68,188.92		$4,014,137.71
Pest Control Records	18,136.60		$1,067,663.34
Structural Pest Control Inspection	22,293.25		$1,312,356.54
Restricted Materials	140,294.85		$8,258,861.52
Investigations	34,010.50		$2,002,126.30
Licensed and Certificated Operators	16,777.14		$987,634.80
Training and Outreach	10,195.05		$600,161.06
Compliance Actions	10,439.95		$614,577.81
Enforcement Actions	14,281.50		$840,721.74
Focused Activities	11,118.00		$654,493.18
Surveilance	32,443.20		$1,909,862.66
HazMat Hours	342.00		$20,132.82
Use Report Review & Follow Up	30,445.10		$1,792,238.74
Other Licensed Hours	129,596.00		$7,629,042.81
Total Program Hours	538,562.06	**Total Program Cost**	$31,704,011.03

Hours taken from Report 5, Costs taken from Annual Financial Statement
"Other Licensed Hours" as reproted on Report 5

	Revenue	
	Mill Assessment 6 mills	$10,672,000
	State General Fund	$2,674,000
	Fees/Penalties	$3,807,023
	County Geneal Fund*	$14,550,998

*Partially reimbursed through unrefunded gas tax fund
reimbursement rate for 2000 was approximately 68%

Department of Pesticide Regulation
Summary of Expenditures by Process Category
Fiscal Year 2000-01
<DRAFT>

Process Categories	Total Allocated Personal Services	Total Allocated Operating Exps. and Equipment	Total Allocated Exps.	Percent of Total (Personal Services)	Percent of Total (OE&E)	Percent of Total (All Costs)
1.0 Pesticide Registration	$5,255,317	$1,786,969	$7,042,286	23.87%	8.65%	16.50%
2.0 New Active Ingredients	$1,600,464	$634,560	$2,235,024	7.27%	3.07%	5.24%
3.0 Licensing and Certification	$1,155,249	$554,329	$1,709,578	5.25%	2.68%	4.01%
4.0 Permitting and Enforcement	$4,120,931	$5,702,227	$9,823,159	18.72%	27.59%	23.01%
5.0 Pesticide Use Reporting	$978,849	$1,658,050	$2,636,899	4.45%	8.02%	6.18%
6.0 Mill Assessment	$725,443	$279,889	$1,005,332	3.30%	1.35%	2.36%
7.0 Environmental Monitoring	$3,409,353	$5,797,465	$9,206,817	15.49%	28.05%	21.57%
8.0 Worker Health and Safety	$1,749,591	$1,448,939	$3,198,530	7.95%	7.01%	7.49%
9.0 Special Projects	$509,818	$362,069	$871,888	2.32%	1.75%	2.04%
10.0 Pest Mgmt Programs	$1,187,665	$1,940,821	$3,128,486	5.39%	9.39%	7.33%
11.0 Tox. Review and Risk Assessment	$1,322,978	$503,867	$1,826,845	6.01%	2.44%	4.28%
Total	$22,015,658	$20,669,186	$42,684,844	100.00%	100.00%	100.00%

Note: The amounts on this schedule do not include expenditures pertaining to the physical move of the department's headquarters during fiscal year 2000-01. Total move-related expenditures were $1,013,114 ($636,004 of Personal Services, $377,110 of OE&E).

Total Allocation			- - - By Detailed Activity - - -				- - - By Process Category - - -			
			Total Allocated Personal Services	Total Allocated Operating Expenses and Equipment	Total Allocated Costs	Percent of Total	Total Allocated Personal Services	Total Allocated Operating Expenses and Equipment	Total Allocated Costs	Percent of Total
Process	**Activity**									
1.0 Pesticide Registration (Existing Products)	1.0 Pesticide Registration (Existing Products)						$5,255,317	$1,786,969	$7,042,286	16.498%
	1.1 Intake and Indexing		$334,054	$113,324	$447,378	1.048%				
	1.1.1 Data Entry to Alternate Tracking Systems		$17,985	$6,101	$24,087	0.056%				
	1.2 Technical Evaluation		$1,002,018	$339,925	$1,341,942	3.144%				
	1.2.1 Return Deficit Submissions to Registrants		$247,113	$83,831	$330,944	0.775%				
	1.3 Scientific Evaluation		$1,723,818	$586,521	$2,310,339	5.413%				
	1.4 Notification and Decision		$543,306	$184,311	$727,617	1.705%				
	1.5 Outreach and Information		$418,823	$142,082	$560,905	1.314%				
	1.5.1 Retrieving License Requests		$81,240	$27,560	$108,800	0.255%				
	1.6 U.S. EPA Activities		$416,040	$143,559	$559,600	1.311%				
	1.7 Special Registration Activities		$470,920	$159,755	$630,675	1.478%				
2.0 Registration of New Active Ingredients	**2.0 Registration of New Active Ingredients**						$1,600,464	$634,560	$2,235,024	5.236%
	2.1 Intake and Indexing		$192,405	$76,182	$268,587	0.629%				
	2.1.1 Data Entry to Alternate Tracking Systems		$9,612	$3,806	$13,418	0.031%				
	2.2 Technical Evaluation		$99,039	$39,214	$138,253	0.324%				
	2.2.1 Return Deficient Submissions to Registrants		$71,002	$28,113	$99,114	0.232%				
	2.3. Scientific Evaluation		$1,057,362	$419,522	$1,476,884	3.460%				
	2.4 Notification and Decision		$171,043	$67,724	$238,767	0.559%				
3.0 Licensing and Certification	**3.0 Licensing and Certification**						$1,155,249	$554,329	$1,709,578	4.005%
	3.1 Exams		$153,557	$146,629	$300,187	0.703%				
	3.1.1 Registration and scheduling of exam		$124,801	$44,500	$169,302	0.397%				
	3.2 Accreditation of Courses		$101,860	$36,320	$138,180	0.324%				
	3.3 New Licenses		$187,720	$68,514	$256,234	0.600%				
	3.4 Renewal Licenses		$286,426	$137,000	$423,426	0.992%				
	3.5 License amendments (add categories, address change, business change)		$112,989	$40,288	$153,278	0.359%				
	3.6 Outreach (presentations, posters, continuing education course review)		$187,896	$81,077	$268,972	0.630%				

Total Allocation			- - - By Detailed Activity - - -				- - - By Process Category - - -			
			Total Allocated Personal Services	Total Allocated Operating Expenses and Equipment	Total Allocated Costs	Percent of Total	Total Allocated Personal Services	Total Allocated Operating Expenses and Equipment	Total Allocated Costs	Percent of Total
Process	**Activity**									
4.0 Permitting and Enforcement	**4.0 Permitting and Enforcement**						$4,120,931	$5,702,227	$9,823,159	23.013%
	4.1 Effectiveness Evaluations		$201,575	$62,060	$263,635	0.618%				
	4.2 Market Surveillance Program		$479,691	$3,084,209	$3,563,900	8.349%				
	4.3 Product Compliance Program		$258,494	$171,786	$430,279	1.008%				
	4.4 Investigations		$308,017	$611,587	$919,604	2.154%				
	4.4.1 Duplicative investigations already performed by CACs		$72,567	$22,342	$94,909	0.222%				
	4.5 Outreach		$269,195	$183,719	$452,915	1.061%				
	4.5.1 Assistance with public inquiries		$185,247	$57,033	$242,281	0.568%				
	4.6 Training		$360,732	$602,202	$962,934	2.256%				
	4.7 Regulatory Activities Summary Reporting		$80,511	$24,787	$105,298	0.247%				
	4.8 Enforcement Actions		$488,682	$262,530	$751,212	1.760%				
	4.8.1 Enforcement Letters		$123,345	$37,975	$161,320	0.378%				
	4.9 Pesticide Use Reporting Program		$19,494	$6,002	$25,496	0.060%				
	4.10 Restricted Materials and Mitigation Measures		$365,704	$166,318	$532,021	1.246%				
	4.11 USDA Residue Program (Federal contract)		$353,747	$239,137	$592,884	1.389%				
	4.12 Policy, Regulation, and Mitigation		$316,462	$97,431	$413,893	0.970%				
	4.13 Compliance Assessment		$182,513	$56,192	$238,705	0.559%				
	4.14 Data Evaluation		$54,953	$16,919	$71,872	0.168%				
5.0 Pesticide Use Reporting	**5.0 Pesticide Use Reporting**						$978,849	$1,658,050	$2,636,899	6.178%
	5.1 Intake and Validation		$138,552	$1,012,028	$1,150,580	2.696%				
	5.2 Reporting		$61,858	$19,644	$81,502	0.191%				
	5.2.1 Activities to identify non-reported pesticide use		$3,983	$1,265	$5,247	0.012%				
	5.3 Database administration / application programming / hardware and software support (internal to DPR and for counties)		$92,907	$47,509	$140,416	0.329%				
	5.4 Development and outreach of GIS permit component		$101,712	$200,299	$302,011	0.708%				
	5.5 Support for Restricted Material permit program		$144,370	$186,717	$331,087	0.776%				
	5.6 PUR development and tracking for School IPM Program		$22,402	$7,114	$29,517	0.069%				
	5.7 Program analysis and planning		$196,012	$83,964	$279,976	0.656%				
	5.8 Outreach		$217,053	$99,510	$316,563	0.742%				

Total Allocation			- - - By Detailed Activity - - -				- - - By Process Category - - -			
			Total Allocated Personal Services	Total Allocated Operating Expenses and Equipment	Total Allocated Costs	Percent of Total	Total Allocated Personal Services	Total Allocated Operating Expenses and Equipment	Total Allocated Costs	Percent of Total
Process	**Activity**									
6.0 Mill Assessment	**6.0 Mill Assessment**						$725,443	$279,889	$1,005,332	2.355%
	6.1 Mailing forms		$28,488	$10,712	$39,200	0.092%				
	6.2 Collections		$146,507	$55,091	$201,599	0.472%				
	6.2.1 Collection efforts for products no longer registered or required to be registered		$26,630	$10,014	$36,644	0.086%				
	6.3 Disbursements		$8,903	$3,348	$12,250	0.029%				
	6.4 Auditing		$429,494	$168,595	$598,089	1.401%				
	6.5 Technical Assistance		$85,422	$32,128	$117,550	0.275%				
7.0 Environmental Monitoring	**7.0 Environmental Monitoring**						$3,409,353	$5,797,465	$9,206,817	21.569%
	7.1 A.B. 2021 (Groundwater) Compliance Activities		$941,634	$1,401,161	$2,342,795	5.489%				
	7.2 Surface Water Protection Activities		$1,379,890	$2,988,071	$4,367,961	10.233%				
	7.3 Air Quality Protection Activities		$658,821	$1,070,380	$1,729,201	4.051%				
	7.4 Special Environmental Monitoring Projects		$429,007	$337,853	$766,860	1.797%				
8.0 Worker Health and Safety	**8.0 Worker Health and Safety**						$1,749,591	$1,448,939	$3,198,530	7.493%
	8.1 Exposure Assessment		$503,853	$204,860	$708,712	1.660%				
	8.2 Mitigation		$176,918	$61,815	$238,732	0.559%				
	8.3 Exposure Monitoring		$294,720	$837,342	$1,132,062	2.652%				
	8.4 Pesticide Illness Surveillance		$490,630	$246,399	$737,029	1.727%				
	8.5 Industrial Hygiene		$117,691	$39,270	$156,961	0.368%				
	8.6 Worker Protection		$123,940	$45,744	$169,685	0.398%				
	8.7 Quality Assurance		$41,840	$13,509	$55,349	0.130%				
9.0 Special Projects	**9.0 Special Projects**						$509,818	$362,069	$871,888	2.043%
	9.1 U.S. EPA Consolidated Cooperative Agreement		$351,662	$311,162	$662,824	1.553%				
	9.2 Endangered Species Project		$158,156	$50,907	$209,064	0.490%				
10.0 Pest Management Programs	**10.0 Pest Management Programs**						$1,187,665	$1,940,821	$3,128,486	7.329%
	10.1 School IPM Program		$368,836	$316,656	$685,492	1.606%				
	10.2 Pest Management Grants Program		$501,680	$1,480,025	$1,981,705	4.643%				
	10.3 Pest Management Activities		$317,149	$144,139	$461,288	1.081%				
11.0 Toxicology Review and Risk Assessment	**11.0 Toxicology Review and Risk Assessment**						$1,322,978	$503,867	$1,826,845	4.280%
	11.1 S.B. 950: Data Quality and Potential Adverse Effects		$567,381	$204,314	$771,695	1.808%				
	11.2 Risk Characterization		$559,738	$230,710	$790,447	1.852%				
	11.3 Special Toxicology Review Activities		$195,859	$68,843	$264,703	0.620%				
	TOTAL		$22,015,658	$20,669,186	$42,684,844	100.000%	$22,015,658	$20,669,186	$42,684,844	100.000%

e-mailed from California Farm Bureau Federation

September 26, 2002

Ms. Adrienne Alvord
Department of Pesticide Regulation
1001 I Street
Sacramento, CA 96814

Dear Adrienne:

I greatly appreciate being given the opportunity to participate in the Pest Management Advisory AB 780 Subcommittee. The subcommittee's task to look at long-term funding for the Department of Pesticide Regulation was a challenging and educational effort.

The extensive information that DPR provided to fulfill our assignment was very helpful. The numerous workshops provided stakeholders with ample time and ability to express their concerns and obtain any further information they deemed necessary.

The attached comments reflect the views of the California Farm Bureau Federation regarding the issues that the subcommittee was charged with addressing as detailed in AB 780 (2001). CFBF will further review many of the report's findings with our members before and after the report is finalized. We look forward to a continued dialogue on any proposed actions or policy revisions with you and other DPR representatives as the report moves forward and is presented to the Administration and Legislature.

Again, thank you for the opportunity to participate in the subcommittee and comment on the draft report entitled "Funding California's Pesticide Regulatory Program."

Sincerely,

Cynthia L. Cory
Director, Environmental Affairs

1) **What are the ongoing funding needs that will allow the Department to carry out its responsibilities under state statues and regulations?**

California's Food and Agricultural (F&A) Code 11501 sets forth the general purposes of law that fundamentally authorize the state's pesticide regulatory program. There have been no major additions to this code section since 1972. The five core purposes assigned to DPR have been such since inception of the state's pesticide regulatory program. The new responsibility added in 1972 was to encourage the development and implementation of pest management systems, stressing application of biological and cultural pest control techniques to achieve levels of control with the least possible harm to nontarget organisms and the environment. While this is a worthy goal, it is a responsibility that should be largely financed by General Funds as opposed to industry assessments. But this and similar type programs (Healthy Schools Act, 2000) continue to be funded copiously by industry assessments.

DPR provided the AB 780 subcommittee a funding history for the year's 1996/97-2000/01. This analysis stated that in the 1999/00 and 2000/01 budget cycles, General Funds contributed 28% ($571,000) of the negotiated salary increases and reductions in state retirement contribution rates while the industry contributed the remaining 72% ($1,479,000), this does not include $118,000 from other unidentified funds. One must question the industry being saddled with 72% of the salary increases for all activities that the department implements. Many of the functions performed by the DPR staff that received the salary increases provide wide ranging consumer protections, not just isolated benefits to the agricultural industry.

Another increase that has been unfairly borne by the industry is the increased lease cost of the new CAL/EPA building. In the 2000/01 FY, the GF provided .005 % ($7,000) of the increase lease cost while the industry footed 99.995% ($1,271,000) of the cost.

In 2000/01 FY, the GF provided 30% ($182,000) of the funds to implement Integrated Pest Management in all school districts, while the industry provided 70% ($426,000). Funding IPM in school districts is surely a benefit to the general public. The agricultural industry does not control what pesticides are used in and around schools. It is not the industry's responsibility and we should not be asked to fund the majority of such an effort. This is a state function that the state should bear.

In 2000/01 there was an increase of $82,000 on the industry fund to provide pesticide enforcement at the CA-Mexico border. This is a function that the state and/or federal government should finance. The state's agricultural industry should not be held accountable for pollution that crosses into California from international neighbors.

In 1997/98 and 1998/99, the industry fund was tapped each FY for $1M for research and development of reduced-risk pest management strategies. This and all of the above examples serve to demonstrate that the industry is being utilized to pay for services and functions that are clearly the responsibility of the state and federal government. While the industry can also participate in funding these activities, they cannot continue to be the major funding source for these functions and be asked to fully fund the programs such as pesticide registration and enforcement that obviously benefit the industry and should be our financial responsibility. This funding trend is patently unfair and only puts the state's agricultural industry at a competitive disadvantage to other states and nations that do not assess their agricultural industries to this degree.

The Administration and Legislature needs to seriously consider the impacts they are placing on the state's agricultural industry. It should be transparent why the industry is not interested in increasing the mill assessment while being given a disproportionate share of the funding responsibilities that should be covered by state and federal funds.

If DPR believes that the funding level reached in 2000/01 ($60.7M) is the necessary amount to implement their program adequately, the GF will need to provide approximately $21.6M in additional funding. This funding scenario will delegate 50% of the DPR budget to the industry and 50% to the state and federal government.

2) What is the appropriate mix of general funds and special funds, including the pesticide mill assessment, to support the Department's activities?

The initial pesticide regulatory program was initiated and housed in the Department of Food and Agriculture. A 1977 CDFA policy letter set forth the department's policy concerning the source of funds to support their programs. The policy states that programs that directly benefit the general public and/or agriculture in general should be an obligation of the GF. Programs that directly benefit an identifiable segment of the agricultural industry should be supported by assessments on the industry. The GF and assessments on the industry should jointly fund programs that benefit the general public and provide direct benefits to identifiable segments of the industry.

The overview of total DPR costs presented on pages 26-27 of the draft report indicate that there is virtually a 50/50 split in DPR between what can be construed to directly benefit the industry and what benefits the general public. From 1990-2000, the total DPR budget increased 32%, from $41.2M to $61M. The industry contribution to the budget increased 42% from $22M to $38M. The GF contribution increased 6%, from $15.8M to $16.9M. During this decade, there were minor definitional amendments to the statutory responsibilities of DPR (as defined in F&A Code Section 11501), but no new statutory responsibilities were added during this period. While new DPR programs were enacted during this period, the five core purpose in Section 11501 remain unchanged.

The industry strongly believes that a greater share of the total DPR budget should be from the GF. The U.S. EPA's Office of Pesticide Programs has a budget for FY 2002 of $119M. Fees cover approximately 15% of this budget and 85% is GF.

There is no other pesticide regulatory program in the U.S. that comes close to spending the amount of money that California does on its program. California is the only state to require full use reporting of all agricultural pesticide use and structural pesticides applied by professional applicators. No other state has a permitting system for use of restricted pesticides, and few states have any effective mechanism for enforcement of pesticide laws and regulations at the county level. These and other unique aspects of California's program provide a broad source of information and consumer protections that benefit many segments of the society, including the agricultural community. While the industry is willing to share in the costs, it must be recognized that financing the most comprehensive, sophisticated program in the nation must be an evenly shared effort, not a lop-sided burden on the industry. The state's administrative and legislative bodies that demand such an extensive program need to recognize it must provide adequate funding to implement it.

3) What is the appropriate rate of mill assessment on pesticide products that are used primarily in agricultural production and the appropriate rate for all other pesticide products?

The current DPR system is not set up to decipher the difference between what is an agricultural or non-agricultural use of pesticides. According to DPR, a significant amount of staff time and effort would be needed to analyze the labels of more than 11,000 registered pesticide products to make a distinction between the two uses. There is the added complexity that some pesticides could be used in agricultural and non-agricultural uses. Farm Bureau does not believe undertaking this task with the current budget pressures would be a worthwhile investment of resources. An alternative suggestion could be to set up a system that would try to differentiate this information on all new pesticides that are registered. This would allow this information to become available as part of the process of registering new products, as opposed to a retroactive approach.

At the present rate of 17.5 mills, the industry is providing 69% of program costs. The industry is not interested in entertaining any increases in the mill rate until the state increases their share of the funding to finance programs that clearly benefit the general public. The general public benefit programs that the state is using the industry to disproportionately fund are detailed in Question #1.

The Farm Bureau is in favor of the five-year sunset clause in current statute. Until the state commits and begins bearing more of the fair share of the fiscal responsibility for this important regulatory program, a sunset clause longer than 5 years should not be considered. We believe that a sunset clause is a necessary tool to review program costs.

Several potential fee increases (i.e. Section 18 or 24c, label amendments, etc.) were discussed as possible sources of increased revenue. Farm Bureau would request that any fee increase be thoroughly reviewed by the Agricultural Pest Control Advisory Committee and the Pest Management Advisory Committee before any action is taken to change these or any other fees.

4) **What are potential improvements in the efficiency of DPR's operations, including mechanisms to share pesticide registration workload with the U.S. Environmental Protection Agency?**

There is strong justification for keeping all pesticide related activities within the jurisdiction of DPR, not delegated to other departments and/or agencies. Other state agencies do not have the technical expertise or funding to perform the numerous activities that DPR performs. Staff and funding would have to be assigned to other agencies to conduct the work now done competently by DPR. This would be a paper shuffle, not achieving additional regulatory oversight or cost savings to the state. It would only create a larger bureaucratic maze for the industry to deal with to meet their business needs.

It is unfortunate and not imminently understandable why concurrent review of applications for U.S. EPA designated reduced-risk products must be suspended due to the 2002-03 budget shortfalls. It seems that concurrent review would result in cost savings. Despite this shortcoming, Farm Bureau is aware of the California Environmental Quality Act (CEQA) requirement that DPR satisfies with their regulatory framework.

Farm Bureau agrees with the "Funding California's Pesticide Regulatory Program" report that many noteworthy efficiencies have been made by DPR to enhance and streamline their operations. While information technology is always providing opportunity for further efficiency, these changes cost money. The industry welcomes continued efficiencies, but not if we are going to saddled with the cost of providing them. The highest priority at this time is for the state to recognize the importance of this pesticide regulatory program to the general public and provide adequate funding to actualize the program they have created.

(emailed from the California Plant Health Association)

September 23, 2002

Ms. Adrienne Alvord
Legislative Director
Department of Pesticide Regulation
1001 I Street
Sacramento, California 95814

RE: Funding California's Pesticide Regulatory Program

Dear Adrienne:

Thank you for providing me with the Department's draft report entitled *"Funding California's Pesticide Regulatory Program"*. After reading the document, we have identified a number of questions and comments, which are attached. Adrienne, while it may appear that we are requesting a lot of additional information from the Department, much of it is information that we believe will better position the Department to justify it's program activities.

Please be advised that CPHA's Board of Directors will be meeting in the 2nd week in October. Staff will present the issue of "funding California's pesticide regulatory program" to them for their consideration and position at that time. Therefore, it will be later that month before we are able to present funding recommendations to the Department.

Thank you with this opportunity to comment on the Department's draft report entitled *"Funding California's Pesticide Regulatory Program"*. I will follow up with you shortly regarding the availability and timing of the additional information that we are requesting. Please call me if you have any questions.

With best regards,

(Original signed by)

Steve Forsberg
Sr. Vice President

Attachment

Attachment: CPHA Comments to Draft DPR Report Entitled
"Funding California's Pesticide Regulatory Program"
September, 2002

Questions / Request for Additional Information:

1. The table on pages 26 and 27 that spread DPR fy 2000 – 01 expenses by process category was helpful, but needs to go further. Specifically:
   - Please provide pys for each process category
   - Please replicate the table for fy 01-02 and 02-03.
   - In the 01-02 and 02-03 tables, please add columns that provide the percent change in dollars and pys from the previous fiscal year.

2. What has changed as you progressed from fiscal years 00-01 to 01-02 to 02-03 and what were the associated dollars and pys attributable to these changes? Note: On pages 27 and 28 of the draft report, the department listed a number of programmatic changes that went into effect as a result of the fy 02-03 budget cuts. What we are asking for is that you break the changes down by key activities within process categories and then enumerate the impact in terms of both dollars and pys.

3. As state funded county agricultural commissioner (CAC) costs and funding comprised almost 30% of the Department's total fy 00-01 budget (and a higher percentage of subsequent budgets), it would be helpful to see cost and py data and output activities arrayed in a manner consistent with our above request for departmental information and an enumeration of program changes that have occurred. Additionally, what efficiencies, if any, is the Department pursuing with the CAC's which potentially could result in reduced costs and/or more efficient use of resources? Finally, how many restricted permit applications (in aggregate) are reviewed by CAC staff today vs. 1980 and how many of those are approved, again, today vs. 1980?

4. Under the heading of "Eliminating Unnecessary Redundancies and Improving Efficiency" the report lists a number of DPR initiatives (pages 16 – 17), including "prioritized risk assessments to provide more effective process for new, reduced-risk active ingredients and made data review procedures more efficient." How did the Department make data review more efficient and what were the results?

5. On pages 18 - 23, under the heading of "Business Process Reengineering", what improvements have been implemented and what savings and/or operational efficiencies have been achieved to date? Is it possible to measure these improvements in terms of dollars, pys, or other measurement indicators.

6. On page 19, under the heading of "E-government enhancements", the report states that "significant increases in productivity" have been achieved. Specifically, how is increased productivity being measured and documented?

Comments.

The following comments are intended to be either constructive in nature or to point out a factual or typographical error:

1. The listing of DPR programs contained on pages 6 & 7 should also include some explanation of the value/benefit of the program and the outcomes and/or results achieved by each.

2. On page 8, first paragraph, a point of clarification: The Legislature did not hold "mil reauthorization hearings" in 1990, as the mil tax rate was already set in statute at 9 mil. Rather, they held hearings to determine if the mil tax should be temporarily doubled to assist in making up for a short-term general fund shortfall.

3. CPHA applauds the Department's substantial effort to eliminate unnecessary redundancies and improve efficiencies (pages 16 – 23). As documented, many improvements have been realized. CPHA would like to discuss with the Department what additional, one time funding would be required in order to complete as yet unfinished projects aimed at further improving efficiencies, eliminating redundancies and/or reducing operational costs.

4. On page 40, under the heading of "Ongoing funding needs to carry out mandates and responsibilities", the report states that Pesticides are "industrial chemicals". Not only is that statement untrue, but it could also lead an uninformed public, including the legislature, to erroneously conclude that pesticides evolve from industrial wastes. The statement (3rd sentence at top of page 40) should be replaced with the following: "Registered pesticides are products that are designed to be toxic to a target pest…"

   Additionally, this section of the report should provide more focus on the beneficial aspects of crop protection and disease prevention. Specifically, the use of crop protection tools enable growers to produce the most nutritious and healthful, safest, most abundant and most affordable supply of food and fiber in the world. The use of rodenticides and insecticides enable public health agencies to control disease carrying vectors, thus eliminating public health threats that plague many other regions of the world. The use of sanitizers and disinfectants enable hospitals, food service establishments and the public at large to eliminate or control sources of human infection that otherwise would result from exposure to unsanitary conditions.

5. Further down page 40, in the 2nd paragraph, the report states that "Registrants want DPR to cease activities that parallel the US EPA, or at a minimum, that DPR's processes should resemble the US EPA's in most every aspect." This statement misrepresents the registrant community's position. We recommend that it be replaced with the following: "Over the years, registrants and grower organizations have strongly encouraged the Department to become more timely in it's product registration process by adopting process efficiencies and eliminating redundant or unnecessary activities."

6. On page 44, under the heading of "Funding Mix in Other Agencies" and again on pages 49 – 51, under the heading of "fee based revenue generation", the attempted comparison of the mil tax and pesticide industry fees assessed by DPR to industry imposed fees assessed by other agencies within the Cal EPA lacks validity and, therefore, is inappropriate. DPR regulates products that have societal value and have undergone extensive regulatory scrutiny. There is a wealth of data / information that has been generated on the use of crop protection products and on mitigating risks presented by their use. The public clearly receives benefit from the registration and use of these products. On the other hand, the fee based programs administered by the three other Cal EPA agencies that were cited all regulate waste streams that have no value to society and of which relatively little data / information has been generated.

7. At the top of page 46, under the heading of "Workgroup comments on funding mix", the reports contains a critical factual error by stating that "…It should be noted that in 2001-02, each mil generated $1.732 in revenue. If a 50:50 split were to be instituted, a viable regulatory program could not be maintained with a 17.5 mil rate and the current fee structure." The draft report itself indicates that in fy 01-02, the mil tax alone generated $30,310,000 in revenue to the Department. In addition, industry fees generated another $3.4 million (pages 37 & 38). Out of a total DPR budget in fy 01-02 of $56 million (page 4), 60+% ($33,710,000 / 56,000,000) was funded by fees and taxes on the regulated industry.

8. On page 56, under the heading of "Restricted Materials Differential", CPHA is opposed to charging a differential mil tax or permit fee for restricted materials. First of all, pesticides, including restricted use materials, are not pollutants! These products are all registered for use because they add value to a farmer's crop or otherwise protect the public from disease or illness and because they can be used safely. Further, many have restrictions placed on their label not because they are toxic to humans but because of toxicity to other crops or organisms, e. g., grapes and bees. Such products can be used with minimal risk when label instructions are adhered to and especially when sensitive crops or organisms are not present. Finally, there often is not a suitable alternative to many restricted use materials. To increase fees in these cases would impose an additional financial burden on California's farmers, resulting in fewer choices and higher costs to consumers.

9. On page 57, under the heading of "Ways to improve the efficiency of DPR operations", please provide a synopsis of those proposed efficiencies that will not be addressed by the Department until after DPR's funding is returned to prior levels.

10. On pages 58 – 60, under the heading of "Funding solutions that would eliminate the five-year sunset…", provides many weak and unsubstantiated rationales for why the sunset should be eliminated. In our opinion, it is inappropriate for a government agency to present biased and unsubstantiated information as fact, especially in an official report, e. g., "The sunset also infringes on the constitutional role of the Executive Branch, which through the budget process determines priorities and programs to be funded through available and appropriate resources". We recommend that this section of the report be eliminated.

(emailed)
September 26, 2002

Paul Helliker, Director
Department of Pesticide Regulation
P.O. Box 4015
Sacramento, CA 95812-4015

RE: Comments on Draft Report: Funding California's Pesticide Regulatory Program

Dear Director Helliker:

The following brief comments from CRLA Foundation are intended to supplement the letter submitted on August 28th.

I am impressed with the clarity and level of detail of the draft report. I appreciated the details provided on revenues generated from Registration and Licensing Fees compared to program costs, the most recent year in which these fees were raised and license and permit fees charged by other agencies. The executive summary or cover letter provided with the report should summarize program costs and revenues generated through Registration and Licensing and note that the vast majority of these fees were last raised in 1986 and 1987 and that there are currently no charges for applications for Section 18 or Section 24c special registrations or research authorizations, all of which require scientific review and evaluation (page 47).

On page 51 it is noted that separate registration is required for consumer products when the scent is changed. Adding "pleasing" scents to pesticide products should not be allowed because it masks the warning properties of the pesticide. If it continues to be allowed, each such change should be carefully reviewed.

The discussion of the concept of Fees for Restricted Materials Permits is informative. If such a fee were employed it is my opinion it should be on a sliding scale based both on the extent of use of restricted materials by the permittee and the complexity of the permit conditions, with the highest fee charged for permits to use fumigant pesticides which have complex permit conditions. I believe a similar recommendation was put forth by Newpoint Group.

I would recommend either moving the subsection entitled " Restricted Materials Differential Mill Fee" to fall right after discussion of Fees for Restricted Materials Permits or referencing the later discussion of

differential mill fee at this point, as these are different options for recovering the greater costs involved in use of restricted pesticides.

On the subject of a tiered mill fee, in the letter of August 23, 2002, CRLAF, Calpirg, CLCV, UFW and the Teamsters reaffirmed support for a tiered mill structure which substantially raises the mill fee for restricted use pesticides, and in addition for those unrestricted pesticides which are minimal exposure pesticides (as defined in Title 3 regulations), organophosphates, carbamates or pesticides listed by the state of California as known carcinogens or developmental or reproductive toxins. In that letter we also recommended that a significant portion of revenues from raising the mill fee should go towards the development and assistance to farmers in transition to safer, more environmentally sound pest control techniques.

In my opinion, a tiered mill fee would be easier to administer than a tiered or sliding permit fee since it is adding a fee to a purchase transaction that is already taking place. It would also be more equitable, because the amount of fee paid would be directly tied to the amount of use of more heavily restricted, higher toxicity pesticides.

I noted a few errors and possibly inadvertent misrepresentations which I hope will be corrected in the final report. They are as follows:

1. On page 11, the discussion should mention the average number of section 18 applications approved per year over the past few years.

2. On page 17, the discussion of the Enforcement and Compliance Action Tracking System should clarify that DPR has made the enforcement database available on the website, but no compliance data has been made available yet.

3. On page 18, the development of a workplan pursuant to discussions with farmworker groups, agricultural commissioners and industry representatives is mentioned. Please send me a copy of this workplan.

4. On page 41, the paragraph beginning "There was also concern expressed by all workgroup members that cuts in DPR's budget would lead to traditional DPR activities being transferred to other state agencies . . . " is misleading. It should be clarified that this was not a major topic of discussion, that the primary conclusion was that other agencies would not be willing to take on additional responsibilities during the current budgetary situation, and that some committee members felt that transfer of primary responsibility for water monitoring might have merit.

5. On page 43, the statement that members from public interest and employee groups did not oppose a 50/50 split - provided the department was fully funded is in error. I specifically stated in meetings that I felt the mill fee should fund considerably more than 50% of the department's budget. In my opinion the mill fee should fund at least 70% of the department's budget.

6. On page 58, the statement that public interest representatives were neutral on the sunset is an oversimplication. It is recollection that public interest representatives generally favored extending the time period between sunsets considerably. I would be strongly opposed to having the mill fee sunset to zero.

7. On page 59, the statement "Since 1999, DPR managers and technical experts have met regularly with public-interest and farm labor groups to get input on ways to better address worker safety issues." is not accurate. If such a statement is included it should be revised to read " In 1999 and 2000, DPR managers and technical experts held several meetings with public interest and farm labor groups to get input on ways to better address worker safety issues." It is also my understanding that the review of field posting was initiated at the request of the Assembly Agricultural Committee.

Thank you for this opportunity to provide input.

Sincerely,

Anne Katten, MPH
CRLA Foundation

(e-mailed from California Rural Legal Assistance Foundation, United Farm Works, California League of Conservation Voters, CalPIRG, and California Teamsters Public Affairs Council)

August 28, 2002

Paul Helliker, Director
Department of Pesticide Regulation
P.O. Box 4015
Sacramento, CA 95812-4015

Dear Director Helliker:

As members of the AB 780 Subcommittee we are writing both to respond to your request for input on the 2003/2004 Department budget priorities and to express our positions on appropriate long-term funding solutions for the Department. This letter is intended to supplement comments made in meetings on long-term Department funding issues.

1) Input on the 2003/2004 Department budget priorities
We appreciate the opportunity to comment on the Department's budget priorities for 2003/04. We do not see any way that the Department can make further cuts in existing programs and conceivably meet its statutory mandates environment (Food and Ag Code Section 11501) to safeguard health and safety of agricultural workers and the public, protect the environment from harmful effects of pesticides, and encourage development and implementation of pest control techniques which pose minimal harm to public health and the environment. The budget for the upcoming year already incorporates severe cuts in the budgets for risk assessment, air and water monitoring, toxic air contaminant mitigation and development and implementation of less toxic pest control techniques which place the Department's ability to fulfill its mandates in jeopardy.

In lieu of further cuts, we recommend that the Department make up this short-fall by raising fees for pesticide registration and licensing of pest control advisors and commercial applicators, and levying stiff penalties for all late payments of mill assessments. The continuing projected short-fall also supports the need for substantially raising the mill rate or in the alternative, suspending registration of those pesticides which require the most extensive county and Department oversight (due to complex use restrictions imposed in regulation or permit conditions). Pesticides which make particularly heavy demands on Department and county resources include the fumigants methyl bromide, 1, 3 dichloropropene and metam sodium.

2) Long-term funding of Department of Pesticide Regulation programs

A) What are the ongoing funding needs for the department to allow it to carry out its responsibilities under state statutes and regulations?

In our view the Department is already in danger of failing to meet some fundamental mandates due to chronic under-funding of certain programs. These same programs have had their budgets severely reduced for the upcoming year.

Assessing the level of exposure of the public and workers to pesticides and evaluating the risks of such exposure is an integral part of protecting the public, workers and the environment from harmful effects of pesticide exposure. In a 1998-1999 analysis of DPR's program, the Legislative Analyst's Office (LAO) drew attention to the backlog in completion of high priority risk assessments and evaluation of pesticides as possible toxic air contaminants. At that time risk assessments for 75 pesticide active ingredients were designated high priority and 41 pesticides were listed as high priority for toxic air contaminant review. In a risk characterization status report issued in September of 2000 (Report 42), 71 pesticide active ingredients were designated as high priority because only four risk assessments were completed in 2000. In the May Revision of 2002/2003 budget, DPR stated that nine positions collectively would be cut from toxicological evaluations, risk assessment and toxic air contaminant evaluation and mitigation so that it would only be possible to complete five risk assessments and one Toxic Air Contaminant evaluation per year. Clearly, if only four to five risk assessments are completed each year the backlog of high priority risk assessments will persist. Increased funding is needed both so that the salary scale can be raised to attract and retain toxicologists and air monitoring and modeling specialists and to allow staffing to be increased to reduce the backlog of pesticides needing toxicology review and evaluation and exposure reduction or mitigation.

A comprehensive program of reliable air and water monitoring is essential for determining whether existing pesticide use restrictions are preventing harmful levels of exposure. Funding for both has been cut back in the current budget and needs to be reinstated and expanded. It is our position that air monitoring should be conducted by the Air Resources Board utilizing mill fee revenues rather than by industry as a condition of continuing registration. The Air Resources Board, conducting pesticide air monitoring as directed by DPR, has a good record for conducting accurate monitoring at times and sites where peak exposure can be expected. In contrast, industry monitoring has frequently been poorly timed and less than reliable.

In both the Enforcement Initiative and a recent review of county pesticide episode investigations the Department has acknowledged that pesticide poisoning investigations are compromised by a shortage of both county and Department District office staff who are bilingual in English and Spanish. Increased funding is needed to recruit and train more bilingual field staff. Increased funding is also needed to allow all counties and DPR Regional offices to receive and respond to complaints and emergencies on a 24 hour basis, 7 days a week, either through an answering service or some other means.

The Department needs to expand funding for development and implementation of less toxic pest control alternatives. The need for this is underscored by the fact that use of cancer-causing pesticides rose 127 percent between 1995 and 2000. As part of this program the Department should consider simplifying the registration process for products which are demonstrated to be of low risk to public and worker health and the environment.

A program fund is needed to cover medical costs of low-income, uninsured rural residents in the event of major pesticide poisoning incidents such as the Earlimart incident of 1999. This fund should be replenished through revenues from fines and settlements. Unfortunately, based on past history, the department budget should also incorporated estimated cost of response to at least one major pesticide exposure incident per year.

B) What are the appropriate mix of general funds and special funds and;
C) What is the appropriate rate of mill assessment to support the department's activities?

In order for the Department to fulfill its regulatory mandates, a dependable source of funding is needed. The current state budget crisis illustrates that the state general fund is not a dependable source of funding. Relying on the general fund to support at least half of the Department's budget is also inconsistent with the concept that those parties whose products or activities cause harm to the environment should bear the cost of protecting and cleaning up the environment. Governor Davis has endorsed this polluter pays principle. It is our position that the best approach would be for at least 70% of the Department's budget to be funded through mill assessment and registration and licensing fees. The mill assessment has previously been set at this level without discernable impact on the agricultural economy.

The mill assessment should be raised at the next possible opportunity, to a level adequate to maintain the existing programs and significantly increase funding to support far more extensive air and water monitoring, reduce the backlog in risk assessments and toxic air contaminant reviews, mitigate exposures of concern and fund significant grants for the development and implementation of safer, more environmentally sound pest control techniques. Drawing from analysis in the recent Green Watchdog Report, we estimate that an average assessment of at least 30 mills would be necessary to achieve this funding level.

The Department should adopt a tiered mill fee which substantially raises the mill fee for all restricted use pesticides, minimal exposure pesticides, organophosphates, carbamates, and pesticides listed by the state of California as known carcinogens or developmental or reproductive toxins (Health and Safety code section 25249.5) while raising the mill fee for other pesticides to a lesser degree. As detailed in the Green Watchdog Report, the Department in the long-term should significantly raise the mill assessment for each tier and utilize this revenue to assist farmers in transitioning to pest control methods which pose the least possible harm to public and worker health and the environment.

We dispute the industries' claims that raising the mill assessment will significantly hurt California's farm economy. In fact, according to the California Department of Food and Agriculture, the mill assessment, which the pesticide industry eagerly passes on to pesticide buyers, amounts to only about .08 percent of the farmer's average per acre production cost. Total production costs for most crops are between $2,000 and $5,000 per acre. According to the University of California, the mill assessment increase needed to protect current DPR programs would add only about 50 cents per acre to production costs. In addition a viable, adequately funded state program is vital to the prevention of harm to the environment, and public and worker health. Farm worker poisoning, water

pollution and other adverse effects of inadequate control of pesticide use are harmful to the agricultural industry as well as the general public.

D) Potential Improvements in the efficiency of the department's operations including mechanisms to share pesticide registration workload with USEPA

Enforcement
The Department's recent Compliance Assessment indicates that violations of certain pesticide safety regulations are widespread, yet only 520 fines for pesticide safety violations were issued statewide by counties in fiscal year 2000/2001. An enforcement program which fails to penalize violators is not efficient because it lacks an effective deterrent for future violations. As a condition of continued receipt of full funding from DPR, counties should be required to levy civil penalties (fines) routinely for all violations documented in inspections. DPR should also propose regulations to raise maximum fine levels above their current levels, which have not been adjusted for inflation since they were set in 1986.

Mechanisms to share workload with USEPA
It is our conclusion that DPR and USEPA are already working together efficiently on pesticide toxicology reviews needed for pesticide registration. In AB 780 Subcommittee meetings some representatives from USEPA, DPR, public interest groups and industry observed that because of California's unique cropping patterns and extensive agricultural – urban interface, state priorities and needs for exposure assessment and toxicological reviews often diverge from national priorities which are heavily influenced by cropping patterns in the middle western grain belt.

In summary, we appreciate the opportunity to participate in the AB 780 Subcommittee process and urge your careful consideration of comments we have put forth both in meetings and this letter.

Sincerely,

Anne Katten, MPH
Pesticide and Work Safety Project Director
CRLA Foundation

Teresa M. Olle
Toxics Program Director & Staff Attorney
CALPIRG/CALPIRG Charitable Trust

Pete Price
Legislative Advocate
California League of Conservation Voters

Martha Guzmán
Legislative Specialist, Natural Resources
United Farm Workers of America

Shane Gusman
Legislative Representative
California Teamsters Public Affairs Council

Consumer Specialty Products Association

September 20, 2002

Ms. Adrienne Alvord
Legislative Director
Department of Pesticide Regulation
1001 I Street
Sacramento, California 95814

Subject: Funding California's Pesticide Regulatory Program[1]

Dear Ms. Alvord:

The Consumer Specialty Products Association (CSPA)[2] is submitting comments in response to your request for input on the draft report to the Legislature, dated August 30, 2002, entitled "Funding California's Pesticide Regulatory Program." As an active member of the Department of Pesticide Regulation's (DPR's) Pest Management Advisory Committee, CSPA appreciates this opportunity to comment on the Department's draft report and we look forward to continuing a positive dialogue on these important funding issues.

STATEMENT OF INTEREST

CSPA is a nonprofit trade association representing over 220 companies engaged in the formulation, manufacture, distribution, and sale of consumer and institutional specialty products. Our members provide a wide range of products to the consumer and institutional pesticide markets that are directly regulated by your Department. These products include sanitizers and disinfectants, cleaners, ready-to-use insecticides, insect bait stations, insect repellents and other products. Importantly, these products provide positive health benefits for much of California's population and help protect from bacterial infections and even such dangerous diseases as West Nile Virus, Lyme disease, hantavirus and Rocky Mountain Spotted Fever.

I. General Comments

Consumer pesticide products constitute the largest percentage of products registered in California (and the 48 other states that register pesticide products). Consequently, our industry pays a disproportionately large percentage of the registration fees, and as the DPR's draft report explains, also a significant portion of the mill tax.

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[1] Assembly Bill 780 (Thomson, Chapter 523, Statues of 2001) required, among other things, that the Department of Pesticide Regulation analyze its funding, with assistance from a stakeholder advisory committee. In accordance with this requirement, DPR produced a draft report to the Legislature, dated August 30, 2002, entitled "Funding California's Pesticide Regulatory Program." (Hereinafter referred to as "Draft Report").

[2] As of October 2000, "CSPA" is the new name for the Chemical Specialties Manufacturers Association (CSMA).

As a threshold matter, CSPA member companies support the need for an efficient regulatory process and understand the current budget deficit is a significant problem for the Department. However, based upon findings contained in the above-cited draft report, CSPA estimates that the majority of the programs that DPR administers benefit agricultural pesticide producers and users — rather than the producers of consumer and institutional products. Moreover, the draft report amply documents the fact that the majority of DPR's new efficiencies and programs benefit manufacturers and users of agricultural products and those applied by commercial or professional applicators.

II. Comments on Specific Issues Addressed in the DPR's Draft Report

A. Although California's Agriculture May Be Unique, Californians' Homes and Institutions Are Similar to Those of Other Americans.

The DPR's draft report attempts to refute criticism that much of the Department's registration process is duplicative of other government programs, particularly the U.S. Environmental Protection Agency's (EPA's) registration program.[3] Specifically, the draft report explains that California is unique for its evaluation of pesticides, and cites the California Environmental Quality Act (CEQA) which requires evaluations and conclusions to be California-specific in various respects.

However, as a practical matter, the indoor environment, where the overwhelming majority of consumer and institutional pesticide products are used, ***is*** fairly uniform throughout the nation. While the agricultural situations and practices in California may be unique and very different from other states, Californians' homes and institutional settings are ***not*** unique from other areas of our country. Therefore, this fair degree of uniformity should allow a greater level of coordination between DPR and EPA in registering and otherwise regulating consumer and institutional pesticide products. Moreover, greater coordination should result in enhanced efficiencies and significantly reduce the time required to complete registrations for consumer and institutional pesticide products. As a direct benefit of this enhanced efficiency, the Department should be able to reduce its costs in regulating those consumer and institutional pesticide products.

B. While the Air Resources Board May Not Regulate Agricultural Pesticide Products, the State Board Has Promulgated an Extensive Set of Regulations for Consumer and Institutional Pesticide Products.

The draft report states, "The Air Resources Board is the lead agency for implementation of the Toxic Air Contaminant Act, except for pesticides in the air." [4] While it may be true that the Air Resources Board (ARB or State Board) has not promulgated enforceable volatile organic compound (VOC) regulatory standards for agricultural pesticides, the State Board has promulgated strict regulations for consumer and institutional/industrial pesticide products.[5] In fact, the ARB has set stringent VOC standards for some categories of these products twice or

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[3] *See* Draft Report at p. 8.
[4] *See* Draft Report at p. 14.
[5] *See* Cal. Code Regs. Title 17, §§ 94507-17.

even three times in some cases. Therefore, any additional regulations that DPR imposes on consumer and institutional pesticides are in addition to those currently enforced by the ARB.

C. Most of the Department's Efforts to Eliminate Unnecessary Redundancies and Improving Efficiency Have Been Focused on Agricultural Products.

The section of the report entitled "Business Process Improvements" details several activities that DPR has undertaken to improve service.[6] CSPA applauds and supports the Department's efforts to improve its efficiency by eliminating unnecessary redundancies and moving toward greater use of modern information systems technology to support its programs. CSPA recognizes that many of the programmatic improvements benefit consumer pesticide products. Specifically, the Department's efforts to release reports on a more timely basis and its business process reengineering have provided direct benefits for CSPA members and produced needed cost savings for the DPR.

However, CSPA believes that a fair reading of the draft report reveals that the great majority of programs listed under "E-government enhancements" only benefit agricultural and some commercially applied products, or their users from various licensed applicator groups. In particular, online county registration, licensing and certification program enhancements, as well as improving pesticide use reporting (PUR) are all programs that primarily benefit agricultural pesticide producers and users, or commercial pesticide users such as structural pest control, professional turf management, industrial weed control and others.

D. Concurrent Registration Should Reduce — Rather than Increase — the Department's Workload.

The draft report details the process by which DPR began accepting concurrent applications with EPA registration applications for certain types of "reduced risk" pesticides.[7] Specifically, the report states that the workload of the DPR increased. However, CSPA believes that this conclusion appears to be without merit. As a practical matter, the workload associated with registrations should not significantly increase from the introduction of this registration option. Instead, the workload should ***decrease*** from the added benefit of being able to share workproduct with the EPA. Additionally, the draft report's conclusion that submissions have increased as a result of concurrent registrations also appears to be inaccurate.[8] The increased level of registrations would have occurred regardless of the concurrent registration system.

CSPA is greatly concerned that DPR has only partially implemented concurrent review and has strictly limited implementation of the statutory requirement for concurrent review. We believe that concurrent registrations can provide an overall benefit to the DPR's registration process. As a practical matter, concurrent review allows a more rapid completion of registration reviews based on review of each submission through the shared effort and resources of EPA and DPR. Therefore consumer and institutional pesticide manufacturers maintain that, whenever possible and consistent with CEQA requirements, there should be an increase in the number of products and categories allowed to file concurrently.

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[6] *See* Draft Report at pp. 18-20.
[7] *See* Draft Report at pp. 20-21.
[8] *See* Draft Report at p. 20.

E. CSPA Supports the Department's Increased Use of Information Technology and Its Efforts to Make the Registration Process More Readily Understandable.

In 2000, the DPR created the Business Process Workgroup to help the Department conduct business through the use of information technology and adopt methods to make DPR processes more understandable.[9] CSPA strongly supports this goal and believes the group should be broadened. The industry also applauds the registration exemption allowed for chemicals that are low-risk substances and advocates for the expansion of this category of chemicals.

F. DPR Should Expand Its *i-License* Program to Include Consumer Pesticide Product Registrations.

The draft report provides an overview of the Department's new *i-License* program — an innovative initiative that allows online renewal of applicator and application licenses. While CSPA supports such innovation, we are concerned that this program exclusively benefits pesticide products and their users that require these licenses. CSPA strongly supports the Department's proactive efforts to make more services available online and urges DPR to extend this innovation to include consumer and institutional product registrations.

G. The Majority of DPR's Allotted Funding Is Directed to Programs that Primarily Benefit Agricultural Products.

The draft report presents a concise summary of the total allocation of DPR funding for activities and programs. CSPA conducted an extensive assessment of these fund allocations and found that 66 percent of the DPR's allotted funding is directed toward programs that benefit agricultural pesticide manufacturers, while only 34 percent of DPR funding goes toward programs that benefit consumer pesticide programs. This does not compare favorably to the relative shares of registration fees and mill tax paid by the major pesticide industry sectors (as discussed at our General Comments Section I, and Section H following). Accordingly, CSPA strongly urges the DPR and the Legislature to address this cost/benefit inequity in any changes in current fees or taxes.

H. A More Thorough Examination of the Amount Generated by Differential Mill Tax Reveals those Consumer Pesticide Products Pay the Majority of the Mill Assessment.

The draft report describes the differential mill assessment that was collected on agricultural products between 1997 and 2001.[10] However, the report claims that while the differential mill assessment is not an exact number it is useful for estimating the total percentage of the mill tax paid and who pays it.[11]

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[9] *See* Draft Report at p. 21.

[10] *See* Draft Report at p. 36.

[11] The draft report cites two caveats: (1) the three-forth mill tax is self-imposed by registrants who are responsible for appropriately categorizing their products; and (2) under California law, the definition of the term "agricultural-use product" includes products used on agricultural commodities in addition to products used on an in forests, ornamentals, turf, parks, waterways, golf courses, cemeteries, and rights-of-way. *See* Draft Report at p. 36.

The draft report concludes that agricultural product manufacturers pay "approximately fifty percent" of the mill assessments.[12] CSPA respectfully suggests that this is not an exactly correct estimate. A more accurate estimate would reveal that that agricultural product manufacturers pay approximately 47 percent of the mill tax, while consumer and institutional product manufacturers pay approximately 53 percent.

I. Consumer and Agricultural Pesticide Products Provide Significant Benefits to California and to the Nation as a Whole.

The draft report incorrectly states that pesticides are toxic industrial chemicals that must be controlled and regulated in order to prevent excess exposure.[13] With all due respect, CSPA disagrees with this conclusion. Both consumer/institutional and agricultural pesticide products provide considerable health and societal benefits to California and the entire country. Regrettably, the DPR's draft report fails to convey the benefits of the products' use in any meaningful way.

Consumer and institutional pesticides are ***not*** industrial chemicals. Consumer and institutional pesticide products include, among other things, any disinfectant, sanitizer, germicide, insecticide, repellent, rodenticide and any pesticide labeled for use on pets. This category of pesticide products also includes any pesticide labeled for use in areas "in or around household premises." Institutional pesticide products are also used in settings such as schools, office buildings, day care centers, restaurants and hospitals.

Consumer and institutional pesticides, especially antimicrobial products, help eliminate the biological contaminants such as mold and bacteria that cause a variety of human health problems. In addition, consumer pesticides have been used in preventing vector-borne diseases before they occur. In recent West Nile disease outbreaks across the nation, governments have advocated use of consumer pesticides and only effective insect repellents as an important way to protect human health. Other examples of the public health benefits of consumer and institutional pesticide products include:

- Antimicrobial (*i.e.*, disinfectant) products are used by millions of people every day to keep kitchens and bathrooms clean and sanitary. These products are vitally important to protect health in nursing homes, hospitals, hospices and other health care facilities;

- Proper use of antimicrobial products on food preparation surfaces can help protect against Salmonella, *E.coli*, and other bacterial contamination in food.

- Antimicrobial products can be used to eliminate mold that can also cause severe health problems for children, adults, the elderly and those with compromised immune systems. In general, mold has also been found as a major contributor to poor indoor air quality and associated physical illness.

- Pet products are vital to keeping both families and pets healthy and comfortable by protecting them from disease-carrying fleas and ticks.

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[12] *See* Draft Report at p. 36.
[13] *See* Draft Report at p. 40.

- Insect repellents are also critical in protecting the public against tick-borne diseases that have become a rapidly emerging public health threat. For example, the Center for Disease Control (CDC) reports that cases of Lyme disease have been reported in several counties in northwestern California. The annual reported number of Lyme Disease cases increased 25-fold across the US between 1982 and 2002, with a cumulative total of approximately 300,000 cases reported in this 20-year period.

- Insect and rodent control products protect against the transmission of disease by these pests. For example, cockroaches have been found to carry hundreds of different types of bacteria and rodents can transmit several diseases, including the potentially fatal hantavirus.[14]

The public health threat posed by rodents and insects should be recognized. According to the US EPA, rats bite approximately 14,000 people every year.[15] Often these are to children in low-income neighborhoods of urban areas, where maintenance and sanitation are often neglected.

According to the American Association of Poison Control Centers, approximately 6,000 people each year are treated for insect stings in health care facilities. In fact, as many as two to three percent of the US population can have a severe allergic life threatening reaction known as anaphylaxis in response to insect stings.[16]

Recent research has found that cockroach allergens are a leading trigger for asthma among inner-city children. According to the American Lung Association there are 15 million people with asthma in the United States. Nearly one-third of them are children under 18 years of age. Asthma is the most prevalent chronic illness of children and the greatest prevalence of this condition occurs among inner city children. A May 1997 study published in *The New England Journal of Medicine* found that children allergic to cockroach allergens and heavily exposed to the insects at home were three times more likely to be hospitalized than other asthmatic youth.[17] Insect bait stations are an affordable and effective way for homeowners to control cockroaches and protect their families.

J. Based Upon Actual Experience of Other States, DPR Can — and Should — Make a Reasonable Distinction Between Consumer and Agricultural Products.

The draft report contends that the DPR does not have the ability to make a clear distinction between agricultural and consumer or institutional pesticides. Moreover, the report states that DPR's current computerized database does not differentiate between agricultural and consumer products and that DPR would need to review the labels of more than 11, 000 products to determine which products are agricultural-related and which are not.

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[14] Center for Disease Control (http://www.cdc.gov/ncidod/disease/hanta/hps/intro2.htm).

[15] United States Environmental Protection Agency, Prevention, Pesticides and Toxic Substances, *Reregistration Eligibility Decision (RED) Zinc Phosphide*, EPA 738-R-98-006, July 1998, p.34.

[16] American Academy of Asthma Allergy and Immunology (http://www.aaai.org/public/fastfacts/statistics.html).

[17] *The New England Journal of Medicine,* "The Role of Cockroach Allergy and Exposure to Cockroach Allergen in Causing Morbidity Among Inner-City Children with Asthma," May 8, 1997.

CSPA respectfully disagrees with DPR's conclusion. As a threshold matter, DPR currently reviews ***all*** product labels during the registration process. In addition, the Department renews registrations annually, which could present an opportunity to obtain this information (and review and confirm it if necessary). The renewal forms could include a check box that the registrant would mark to indicate the type of product.

Moreover, the following ten states provide some type of distinction between consumer and institutional pesticides and agricultural pesticides (or products in other categories):

- Connecticut [18]
- Illinois [19]
- Maine [20]
- Michigan [21]
- Minnesota [22]
- Nebraska [23]
- New Hampshire [24]
- Rhode Island [25]
- Washington [26]
- Wisconsin [27]

Given these practical and workable precedents in ten other states, CSPA respectfully submits that DPR and the Legislature could also make appropriate distinctions between categories of pesticides that would allow more equitable assessment of registration fees and mill taxes to support DPR's programs.

K. The Department Should Make Several Technical Corrections in its Draft Report.

The draft report contains two minor errors. First, Texas's biannual (***not*** annual) registration fee is $350. Second, New York's biannual (***not*** annual) registration fee is currently $310.[28]

CONCLUSION

CSPA believes that consumer and institutional, as well as agricultural and other commercial pesticide products, provide significant benefits to the residents of California. Specifically, consumer and institutional pesticide products play a vital role in protecting public health and well-being, and enhancing the quality of life for all Californians. In addition, the use of

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[18] Conn. Gen. Stat. Ann. § 22a-48
[19] Ill. Comp. Stat. Ch 415, Par. 60/4.16.
[20] Me. Rev. Stat. Title 22 §§ 1471-C-11; 1471-C -13-A. *See* also 22 MSRA § 141-W (1997).
[21] Mich. Comp. Laws § 324.824.8307. *See* also Mich. Comp. Laws § 324.8705(3).
[22] Minn. Stat. Ann. § 18E.03 Subd. 4(b).
[23] Neb. Rev. Stat. § 2-2624(37).
[24] N.H. Rev. Stat. Ann. § 430:29.
[25] R.I. Gen. Laws § 23-25-6 (1998).
[26] Wash. Admin. Code § 16-228-1410.
[27] Wis. Stat. §§ 94.681(1)(a)-(c).
[28] *See* 2002 N.Y. Laws 82.

agricultural pesticide products is essential to California farmers' ability to continue producing the world's most abundant harvest of affordable crops. Other commercial pesticide applicator groups rely on similar pesticides and pesticide use patterns as are familiar in agriculture. Therefore, we urge the Department in this important report to the Legislature not to ignore or to lose sight of the positive aspects of the products that it regulates.

We are greatly concerned that the DPR's current timeframe for registering consumer and institutional products is often simply too long. Consequently, manufacturers' ability to respond to the needs of California consumers and introduce products is needlessly impaired. Therefore, CSPA believes it would be in the best interests of all parties for DPR to initiate a standard of timeframes as an improvement to performance of its pesticide registration process, while maintaining adequate regulatory scrutiny and safeguards.

CSPA recognizes the severity of the budgetary problems that DPR is facing. However, CPSA feels the Department should conduct a thorough evaluation of its programs and evaluate opportunities for streamlining and increasing the efficiency of the registration program, and perhaps scaling back or eliminating some of the non-registration programs, before it proposes further fee increases. We believe that such an evaluation would be useful in identifying those programs for which additional funding is needed for their success and the product types from which those fees should come. Furthermore, CSPA strongly believes that pesticide registration fees and taxes should be assessed upon those product types that the programs directly benefit. As detailed above, the DPR already collects a disproportionately large share of fees and taxes from consumer and institutional pesticide products.

We appreciate this opportunity to comment on the DPR's draft report and we look forward to discussing these issues with you and your staff. If you have any questions, please contact me at (202) 872-8110.

Respectfully Submitted,

William L. Lafield
Vice President, State Affairs

WLL/jty

cc: Laurie E. Nelson, Randlett / Nelson Associates
CSPA Government Affairs Advisory Committee
CSPA Antimicrobial Products Division
CSPA Pest Management Products Division

P A C I F I C
I N S T I T U T E
FOR STUDIES IN DEVELOPMENT, ENVIRONMENT, AND SECURITY

September 6, 2002

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Dear Ms. Pelham:

Thank you for the opportunity to comment on the draft CDPR long-term funding report required under AB780. The draft contains much useful information. It does not, however, discuss two very high-level policy issues that are critical to address if the report is to contribute substantially toward win-win solutions in the area of pesticide regulation. Without exploring and discussing win-win possibilities, the report does not help us to escape the political realities that have caused the mill fee to have a see-saw history.

The first missing item is the absence of discussion of pesticide use reduction policies as a means for mitigating risk. The "safe standards" approach to regulation is an important one that should be continued. But safe standards are not enough in a world where accidents happen and scientific knowledge (such as toxicology) is both limited and very expensive and time consuming to expand. Use reduction targets and objectives for the most toxic and dangerous pesticides also mitigate risk, and should be pursued aggressively whenever doing so might be economically advantageous or neutral for farmers or the people of the state, overall. As documented in the report issued earlier this year and distributed to CDPR staff and members of the AB780 committee ("Healthy, Fair, and Profitable," available at our website), pesticide use reduction policies have been very successful complements to the safe standards approach in Iowa, Sweden, Denmark, and other places around the world. The combination of these regulatory approaches is more powerful and cost-effective than either alone.

The Department has participated to a small extent in use reduction efforts in the past via, for example, its Pest Management Alliance (PMA) program. But such efforts are woefully underfunded, even when all dollars through all involved parties (e.g., CDPR, CDFA, USDA, UC SAREP, UC IPM, etc.) are combined. The final report should discuss use reduction policies as a contributor to achievement of the Department's legislative mandates.

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This discussion should have significant financial and economic content. Unlike safe standards, which protect public health and safety at an expense to someone, use reductions potentially reduce farming expenditures and health and environmental costs being paid by Californians today. Since California farmers spend about $1 billion per year on pesticides, a 10% use reduction could save them $100 million per year. And since credible estimates suggest that each dollar of pesticides used causes two dollars of environmental and health harm, a 10% use reduction could save the public $200 million per year. Of course achieving a 10% use reduction would have a cost associated with it. My point is that the cost of achieving use reduction – unlike the cost of safe standards compliance – is fully or in part offset by reduced spending.

Second, the report fails to mention that a higher mill fee, with investment in use reduction, can benefit the farming community financially rather than burden it. As the report points out, about 50% of mill fee revenues come from agricultural uses and 50% from non-agricultural uses (with the caveat that the definition of agriculture is arguable). This means that every dollar the farm community invests in itself, via a higher mill fee that is returned to it as public support for low-pesticide use practices, would be matched by one dollar from outside the farm community. This is good for agriculture and good for the people of California. Californians would benefit from fewer and less toxic pesticide residuals in their water supplies, for example, and based on survey results are willing to pay more for cleaner water. A higher mill fee can be a way of transferring payments from those who drink pesticide-polluted water to those who have the power to reduce pesticides in water.

Please let me know if you would like any more information on the points made in this letter. I strongly encourage the Department to use the AB780 process as a way to "think outside the box." Unless we do so, the old arguments between fiscal conservatives and liberals, environmentalists and farmers, agricultural and urban interests, and so forth, will dominate the mill fee policy debate and perpetuate the problems of the past. The AB780 process is an opportunity to explore win-win solutions with a broad group of stakeholders. I hope the final report (or next draft) will more fully explore innovative approaches to solving our pesticide-related financial and economic problems.

Sincerely,
Original signed by

Gary H. Wolff, P.E., Ph.D.
Principal Economist and Engineer