

Stronger Enforcement Protects Everyone

Since 2004, DPR and the county agricultural commissioners (CACs), the state's local pesticide enforcement agents, have carried out several projects to strengthen enforcement and better protect workers, the public and the environment.

Focusing priorities

In late 2004, DPR and the CACs jointly developed guidance to improve enforcement by focusing on:

- Restricted material permitting.
- Compliance monitoring through inspections and investigations.
- Enforcement response to violations.

Continual program review

DPR provides counties with guidance to target core enforcement program priorities. As part of an organization-wide effort to incorporate continual quality improvement into the state's pesticide enforcement program, DPR and the CACs developed a cycle for state and local program review, planning, implementation and evaluation.

DPR regional staff help CACs develop annual work plans that detail state, regional and local compliance problems and measurable solutions based on available resources. Regional staff also evaluate CAC performance, using measures that examine how well counties are targeting local problems and patterns of continuing violations. County work plans and evaluations are posted online.

Tracking success

Tracking the enforcement programs conducted in the state's 58 counties involves tracking tens of thousands of permits, inspections and enforcement actions. In 2008, we consolidated CAC data from several DPR databases to create an online template of enforcement metrics. DPR and the CACs can use this Enforcement Statistical Profile to develop county work plans and conduct evaluations. It also helps identify trends and program changes, and both CAC staff training and industry outreach needs. The statistical profile improves inspection compliance by developing better inspection targeting programs.

Upgrading inspections

In 2009, DPR's Enforcement Branch completed a two-year project to upgrade the inspection program used by DPR and CAC staff. Forms used in 22 types of inspections that evaluate compliance with laws and regulations were revised to better align inspection criteria.

DPR's online *Pesticide Use Enforcement Program Standards Compendium* was updated and DPR and CAC staff trained in how to use the new criteria. The final component involved extensive changes to the inspection tracking database that DPR uses to capture, track and analyze compliance. Conversion to the new database took place in early 2010.

Consolidating databases

The Enforcement Branch collects and analyzes data available through DPR and other sources to help develop enforcement metrics on a statewide, regional and local basis. Information and analyses are shared throughout DPR to address worker protection, integrated pest management, water quality, air quality (contributions to smog and ozone depletion) and endangered species protection.

In the next several years, DPR plans to develop an application to bridge DPR's diverse databases. This will create a fully integrated pesticide regulatory data management system that can improve how DPR assesses its programs and their effectiveness.



This project led to development of an enforcement response policy which gave CACs a standardized approach to classifying violations and taking appropriate enforcement actions to ensure the most serious violations drew the heaviest penalties. DPR formally adopted this policy into regulation in late 2006. DPR plans to amend the rules in 2011 to improve their workability.

Ensuring Equal Protection

Treating people fairly guides how DPR conducts its activities. Fair treatment means that no one group of people, including racial, ethnic, or socioeconomic groups, should be disproportionately impacted by pesticides.

Anyone whose health or environment may be affected by pesticides should be able to take part in the regulatory process. DPR formalized incorporation of these environmental justice (EJ) principles into our programs and policies when we updated our Strategic Plan in 2008 and made ensuring EJ one of its five goals.

Getting help and answers

EJ advocacy groups had criticized DPR in the past for not giving people information needed to recognize and report pesticide problems. To help address this, in late 2006 DPR launched an automated, toll-free line (1-87PestLine) that gives callers the phone number of the county agricultural commissioner (CAC) and then offers to transfer the caller there. The CACs are the state's local pesticide enforcement agents. The recorded line, in English and Spanish, is designed to encourage timely filing of pesticide complaints, a key to successful investigation.



In 2008, DPR published a 34-page Community Guide to Recognizing and Reporting Pesticide Problems. Topics include what to do in a pesticide emergency, a discussion of pesticide drift and odor, and a checklist to record details about a pesticide incident. After the first printing of 5,000 copies ran out, DPR printed several thousand more, including a Spanish-language version targeted for ethnic settings. DPR sent the Guide to more than 900 community health centers, county health departments and to every public library in the state. It may be downloaded from the DPR Web site and free copies are available on request.

Widening opportunities to participate

As one way to widen public participation in regulatory decisionmaking, DPR schedules regulatory hearings outside Sacramento at times and places convenient to local residents, with simultaneous translation into Spanish. DPR routinely translates key regulatory documents into Spanish. In 2006, we changed how we select pesticides for risk assessment by opening it to public comment. We also have posted more than 50 completed risk assessments online. To further increase transparency in decision-making, in 2007 all DPR program managers and supervisors took a week-long class on how to get the public more involved in the decisions DPR makes on policies and activities.

REACHING OUT TO WORKERS AND THEIR FAMILIES



State law was amended in 2004 to require DPR to “create a program to conduct outreach and education activities for worker safety (including) rights and procedures of workers and those potentially exposed to pesticides and how to file confidential complaints.” DPR redirected existing funding to hire an outreach specialist (Martha Sanchez, pictured here in a public service announcement on the dangers of insect foggers) to coordinate activities aimed at Hispanic workers and communities. She and other staff take part in workgroups; provide literature to migrant clinics and other care facilities; staff information booths at health fairs and other festivals; and participate in radio and television interviews on pesticide safety.

Legislation Enhances DPR Authority, Effectiveness

Recent legislation has enhanced DPR’s authority and effectiveness. One of the most significant legislative accomplishments was the passage of Assembly Bill 1011 (Matthews, 2005). The bill streamlined product registration by changing how DPR handles registration data. Other provisions gave DPR authority to ensure that everyone who sells pesticides in California complies with registration requirements and pays their fair share for environmental programs.

Streamlining registration, closing loopholes

Before the passage of AB 1011, DPR was prohibited from considering data submitted by one company to evaluate another company’s application to register a pesticide product or amend

The law did not change any of DPR’s comprehensive requirements for health, safety and environmental data. However, with the passage of AB 1011, DPR can consider all data it has on file, regardless of the source. AB 1011 also authorized DPR to use previous evaluations of pesticide products when evaluating new registrations and label amendments.

Applicants may still submit their own data in support of a registration application. If the applicant does not do so and wants DPR to instead use another company’s data to support its registration application, the applicant may be required to offer to pay the data owner a share of the cost of producing the data.

AB 1011 removed the requirement that DPR scientists repeatedly review the same data each time an identical or similar product was submitted for registration. Cutting out this busywork makes it possible to use earlier scientific evaluations for new applications. This reduced the time to process a registration application by more than 25 percent.

The bill made it easier for generic pesticide products (typically lower in cost) to enter the California market. During legislative discussions, this raised concerns that more products

containing older, more toxic ingredients would be registered and used. However, a 2009 DPR analysis found that while there was a slight increase in registration of these products, there was no correlation between this increase and the total pounds sold of these compounds.

AB 1011 also expanded broker licensing requirements. Before AB 1011 passed, only sellers of agricultural-use pesticides had to be licensed. DPR auditors had uncovered loopholes in previous laws that allowed some pesticide dealers and sellers to avoid reporting sales and paying sales fees. At particular issue were sales of industrial, institutional, and consumer-use pesticide sales on the Internet by intermediate brokers, and through the distribution centers of nationwide retailers.

The legislation expanded broker licensing to encompass all those who first sell or distribute any pesticides into California, whether agricultural or nonagricultural products. The goal was to promote a safe fair, and equitable marketplace by ensuring only California-registered products are sold in the state and that fees levied on pesticide sales are paid on all sales.

a registration without a letter of authorization from the company that originally submitted the data. This requirement allowed data-generating companies to essentially keep smaller competitor companies out of the California market by refusing to grant a letter of authorization. Many small companies could not afford to generate the required data themselves.





OTHER LEGISLATION OF NOTE INCLUDES:

Senate Bill 391 (Florez, 2004)

Made violators legally responsible to pay certain medical costs of victims if a pesticide use violation causes illness or injury. The law was prompted by pesticide drift incidents that sickened people living near agricultural fields. Many were without medical insurance and could not pay for treatment. SB 391 also increased penalties that DPR and the county agricultural commissioners can impose for pesticide violations.

AB 405 (Montanez, 2005)

Outlawed school use of certain pesticides approved by DPR under a conditional or interim registration, or under an experimental use permit. To help schools comply, DPR posts a list of these pesticides on its Web site.

AB 2865 (Torrico, 2006)

Expanded the Healthy Schools Act of 2000 to private child day care facilities which (except for family child care homes) now have to comply with certain recordkeeping and notification requirements when they use pesticides. The law also requires DPR to promote adoption of integrated pest management by child day care facilities as we have done for K-12 schools.

SB 1723 (Maldonado, 2008)

Required that the first company or individual to sell certain types of pesticide products must set up a program to recycle containers or show that they take part in a recycling program. The law applies to products packaged in rigid, non-refillable, high-density containers of 55 gallons or less.

Structural Pest Control Board

Was transferred from the Department of Consumer Affairs to DPR as a result of legislation in 2009. The Board regulates the structural pest control industry, licensing businesses and individuals who conduct structural pest control.

AB 1963 (Nava, 2010)

Requires laboratories that do blood tests to determine worker exposure to cholinesterase-inhibiting pesticides to report the results to DPR. (Cholinesterase is a brain enzyme that helps regulate nerve impulses.) Previous law had already required employees who regularly handle categories of pesticides that inhibit cholinesterase to be regularly tested to determine if they have been overexposed, but did not require reporting of the data to DPR.

MONITORING THE MARKETPLACE

DPR staff routinely conduct inspections at hardware stores, retail and wholesale nurseries, landscape material suppliers, pet suppliers, pool and spa centers, or any other site where pesticides are sold. They inspect products offered for sale, reviewing labels to ensure they are registered. They also check that product labels are the same as those approved by DPR's Registration Branch – that there are no changes to claims or uses, or to precautionary statements that mitigate environmental and health hazards. This is to ensure that the products have been evaluated and will not cause health or environmental problems.

Produce Compliance Branch staff also audit pesticide sellers throughout the country to determine if their pesticides are registered, to verify sales, and to document that mill assessments were paid. If sales are found of unregistered products, or if mill assessments were unpaid, sellers must pay any monies owed and are subject to civil penalties.

In 2009, DPR staff conducted about 400 inspections and 80 audits. They found close to 500 unregistered and misbranded pesticide products, which were removed from the marketplace. DPR completed legal proceedings on 99 cases, collecting more than \$1.1 million in penalties from violators.

Delivering Services, Information Online

The public and industries that DPR regulates expect faster, more convenient interaction and service. Budgetary challenges provide added impetus to government’s continuing process of becoming more efficient and effective. One of the best ways to do this is to make better use of information technology.

Online databases

In 2005, DPR launched the nation’s first interactive online database to help protect endangered species from pesticides. It allows pesticide applicators and others to quickly identify habitat for endangered



DPR’s well water database will go online, providing access to data on nearly 2 million analyses of more than 22,000 wells..

animals and plants and view the required precautions to prevent harm. The search engine replaced more than 2,500 pages of county-specific paper bulletins that were difficult to search for specific location and pesticide.

In 2009, DPR introduced a Web-based search engine of DPR’s unique database of pesticide-related illnesses and injuries. California Pesticide Illness Query, or CalPIQ, includes illness and injury data since 1992. Users can request data based on customized variables, including year and county

where the incident occurred, whether the use was in agriculture or not, and specific pesticide by toxicity category, active ingredient or intended use.

“Our scientists respond to dozens of requests each year for illness data,” said DPR Director Mary-Ann Warmerdam. “CalPIQ provides access to and transparency of the data so researchers and the public can do their own searches, immediately and easily.”

Expected to go online in the next several months will be a Web interface with DPR’s database of pesticides found in well water. By law, DPR must take specific actions to prevent pesticide pollution of ground water. To do so, we maintain a database of well sampling results submitted by state and local agencies. The database, set up in 1983, contains more than 1.8 million sample analyses filed by 45 agencies. The data are from more than 22,000 public and private wells, sampled for more than 340 pesticides and breakdown products.

Improving customer service

In 2004, DPR started a system that sends e-mails to pesticide registrants as their registration applications move through the process. This gives them better and timelier information and makes more efficient use of staff time. In 2009, we finished a two-year project to update and put online our Registration Branch Desk Manual, a reference guide detailing the specific steps involved in and the data required to register pesticide products.

We redesigned Web pages for the Pesticide Registration Branch and Licensing and Certification Program to make them easier to navigate. Next up is doing this for our whole site, to help people more easily find information and services.

In the next year, another Web site upgrade will make it possible for individuals and businesses that advise, recommend or apply pesticides to renew their licenses online. That will be followed by a project to allow licensing applications online as well. In the long term, our plans are to set up systems to accept pesticide registration applications electronically, including viewable product labels.

We have also begun a project that will enable pesticide registrants to pay their mill assessment fees and conduct secure business transactions with DPR over the Internet. (The mill assessment, a fee levied on pesticide sales, is DPR’s largest revenue source.) This technology initiative is designed to help strengthen our audit and investigation programs, to do a better job making sure pesticide products are registered for sale and use in California, that they are labeled correctly, and that required fees have been paid. DPR’s return on investment includes goals that project increases in mill revenue by 20 percent and findings of unregistered and misbranded pesticides by 15 percent. We expect to implement the system by mid 2013.