



Fines and fees, like the mill assessment on pesticide sales, provide most of DPR's funding.

## Funding and Accountability

The Department of Pesticide Regulation (DPR) is funded by regulatory fees, penalties and a small amount of federal funds. Some revenue sources are:

- Pesticide product registration and renewal fees.
- Fees from pesticide-related licenses issued to people and businesses that sell, apply or recommend the use of pesticides.
- Civil penalties (for example, selling unregistered or misbranded pesticide products).
- Miscellaneous fees and various reimbursements.
- Funds from the U.S. Environmental Protection Agency (U.S. EPA) and U.S. Department of Agriculture (USDA). Federal funding supports DPR activities performed jointly or for these federal agencies. For example, under a cooperative agreement, U.S. EPA transfers funds to DPR to conduct pesticide enforcement and program development, including worker safety and endangered species protection. (The grant covers a small portion of enforcement costs in DPR's wide-ranging program.)

The largest revenue source is the mill assessment—a fee levied on pesticide sales at the point of first sale into the state.

### Pesticide Regulatory Program Funding and the "Mill"

As of 2016, the mill assessment is at the statutory maximum of 21 mills—that is, 2.1 cents per dollar of sales of registered pesticide products sold in California. (A mill is equal to one-tenth of a cent.) Exempt from the mill assessment are products registered for manufacturing use—that is, sold to other firms that repackage it as their own product or use it to manufacture other pesticide products. The company that repackages or uses the pesticide to make another product must register the product and pay the mill assessment on its California sales.

An extra three-fourths mill is assessed on agricultural and dual-use products (pesticides labeled for both agricultural and nonagricultural use). These funds are transferred to the California Department of Food and Agriculture (CDFA) to support its pesticide consultation unit.

Even when the mill rate stays the same, the revenue collected from the mill assessment varies depending on the total dollar sales of pesticides in California. In the last 20 years ending in 2015, yearly mill revenue had increased in all but three years, with the increase ranging from 0.3 to 11 percent, averaging about 6 to 7 percent. In 2015-16, mill revenue was \$74 million.

The mill assessment is self-reported and the law requires those subject to the assessment to keep records and be subject to audit by DPR. Pesticide registrants, dealers and brokers are audited to find out if pesticides are registered, to verify sales and to document that mill assessments were paid. If investigators find sales of unregistered products or unpaid mill assessments, the sellers must pay any money owed and a 10 percent late penalty. They are also subject to civil penalties. DPR annually distributes the required proportion of mill assessment revenue to the county agricultural commissioners (CACs) to support local pesticide use enforcement.

Pesticide and pest control legislation in the early part of the 20th century was sponsored by the regulated industry and focused on preventing fraudulent practices and unfair competition. Activities clearly related to registration and product quality were fully funded by industry fees, which were increased as necessary to keep the programs self-supporting. Public health protection became part of the regulatory program mission with the passage of the Chemical Spray Residue Act of 1927 and the initiation of residue testing in fresh produce. With this, General Funds began supporting some of the pesticide regulatory program although the mix between this and special funds varies over the years.

In 1971, a mill assessment on pesticide sales was passed (Chapter 1367, SB 825). The law set the rate at 8 mills (\$0.008), with the counties receiving 62.5 percent of these funds for local pesticide enforcement.

The assessment did not change until the 1989 passage of the Food Safety Act (Chapter 1200, AB 2161), which increased the assessment to 9 mills. The bill sanctioned full pesticide use reporting and increased produce monitoring, among other food safety measures. Five-eighths of the extra 1.0 mill went to CACs to cover costs of the new programs.

In 1990, DPR's General Fund support was reduced as part of the state's effort to address a statewide budget crisis. To compensate, the mill assessment was increased from 9 to 18 mills (Chapter 1679, Statutes of 1990, AB 2419), with CACs receiving 31.25 percent of the mill revenues to keep funding consistent with the amount they had been receiving previously. The bill also required that the department "conduct a study to evaluate the pesticide regulatory programs funded with the (mill) assessment ... to determine which program components can be modified or eliminated in order to avoid duplication of any other state or federal requirements." DPR submitted the report to the Legislature in May 1991.

The 1990 legislation included a new sunset on the mill assessment, which was scheduled to revert to 9 mills on July 1, 1992. In September 1992, the Legislature again reduced General Fund support and increased the mill assessment (Chapter 706, SB 1850) to 22 mills, with a new sunset of July 1, 1997. (Because SB 1850 was enacted with the urgency clause and went into effect before the July - September 1992 assessment was due, the mill rate did not revert to 9 mills.)

Twenty-one mills were divided between DPR and the counties. Revenue from the 22nd mill was divided between CDFA and the counties. The counties received 32.5 percent of the extra mill to defray costs associated with collection of pesticide use data. CDFA received 67.5 percent of one mill (later increased to three-fourths mill), which under the law could only be used to fund its pesticide consultation unit. A later amendment (Chapter 695, Statutes of 1997, SB 1161) prohibited CDFA from using the funds for pesticide risks assessment.

As required by SB 1850, DPR must consult with CDFA on Section 18 and Section 24(c) special local need registrations, denial of new active ingredient registrations, suspension or cancellation of pesticide registrations or uses, and "other measures adopted to mitigate unacceptable adverse pesticidal effects." In 1992, DPR and CDFA signed an agreement to detail their consultative relationship and "ensure that CDFA is provided an opportunity to submit information to DPR, including, but not limited to, the impacts on agriculture resulting from the specified actions, benefits derived from the use of a pesticide, and any recommended alternative action."

In 1993, legislation (Chapter 1176, AB 770) closed a loophole in collecting 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.

In 1997, legislation (Chapter 695, SB 1161) reauthorized the mill assessment, capping the mill at 15.15 from January 1998 through March 1999, then raising it



*It remains to be seen whether or not the income derived from licenses required by the Economic Poison Law will be sufficient for its full enforcement. It is probably that some support by State appropriation will be needed if the law is to be made effective ....*

— 1921 California Department of Agriculture annual report



**Mill payment reminders being prepared in 2015.**

to a maximum of 17.5 mills through December 2002 when, without subsequent legislation, it would have reverted to 9 mills. The Legislature set the 17.5-mill maximum artificially low to allow the department to spend down a large reserve in the DPR Fund. The bill increased the assessment that funded CDFA's pesticide consultation to three-quarters of a mill and changed it to apply only on agricultural and dual-use products. The law requires CDFA to decide each year "the necessity of this additional assessment" and it may choose not to have it collected in any given year.

The 1997 mill reauthorization legislation also changed the funding formula for CACs so, beginning on July 1, 1998, the counties were to receive the revenue from 6 mills. The funds are distributed based on each county's pesticide control activities, costs, workload and performance.

Another pending sunset to 9 mills prompted the 2001 passage of AB 780 (Chapter 523). The bill provided for a continuation of the mill assessment rate at 17.5 mills plus the extra three-fourths mill on agricultural and dual-use products. The law extended the mill assessment sunset to June 30, 2004, when it would revert to 9 mills.

AB 780 required DPR to form a subcommittee of stakeholders to help the department prepare a report to the Legislature to recommend "a funding solution ... that would eliminate the need to reauthorize the mill assessment ... every five years and that would preserve the accountability of the department to the entities contributing to the financing of the department." (See *section on Function-based Accounting, page 111.*) The report was also to analyze ongoing funding needs and potential business process improvement measures. DPR submitted the report to the Legislature in January 2003.

AB 780 also clarified the law to make it explicit that products purchased over the Internet or by telephone and sent from out of state were subject to the mill assessment.

SB 1049 (Chapter 741, Statutes of 2003) was a budget trailer bill that provided for new and increased fees for natural resources and environmental protection agencies. It put into place the most significant changes in DPR funding in more than two decades: removing all general funds and making the department a fee-based agency. The legislation capped the mill assessment at 21 mills and preserved DPR's authority to adjust the mill fee under that cap. It also removed the mill assessment sunset and made permanent DPR's authorization to collect the extra three-quarter mill on agricultural and dual-use products to support CDFA's pesticide consultation, unless requested not to do so by CDFA.

SB 1049 required DPR to make its product registration and professional licensing programs self-supporting and gave the department authority to adjust fees to support spending in each program. Fees had previously been set in statute and could only be changed by the Legislature. Before the 2003 passage of SB 1049, the last fee adjustment had been in the 1980s. As program costs increased, fees no longer covered costs. Because fees were set in statute, the department could not adjust them or institute added fees for services that created significant workload. SB 1049 gave DPR authority to use rulemaking to set registration and licensing fees. The legislation also allowed the department to charge separate fees for various activities related to its licensing program. For example, separate fees could be levied for conducting examinations, approving continuing education courses and issuing duplicate licensing cards. It also allowed the department to charge fees for amendments to pesticide registrations.

In late 2003, DPR adopted regulations to increase licensing and registration fees and raise the mill assessment from 17.5 to 21 mills, plus three-quarters mill on agricultural and dual-use products. (See *page 112 for more information on licensing and registration fees.*) These changes became effective in January 2004.

## Function-based Accounting

California state government agencies typically use a financial accounting system designed to track or report costs by organizational units—that is, by divisions and branches. However, DPR wanted its accounting to more accurately capture and track functional costs and program management responsibilities across organizational units. To do so, DPR undertook a function-based costing initiative to identify and assign the department’s costs to specific activities. A function is a set of activities that produces a key service to meet program mandates. If budgeting is based on organizational units, it is difficult to know the costs associated with each function or its resulting service. Most DPR functions are handled by more than one of its branches.

Function-based costing allows DPR to see more clearly how it uses funds because the system is based on services provided. Instead of assigning costs to a specific product, 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 managing a grant program. The allocation provides important information to management and to stakeholders about how DPR uses its funds and what the costs are of providing various services. Knowing what it costs to run 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 or collect pesticide use reporting data. Since most processes and activities within government agencies change only gradually, function-based costing provides DPR with a tool to monitor costs over fiscal years.

Eleven operational functions were identified:

- Product registration.
- Human health and environmental assessments.
- Licensing and certification.
- Permitting and pesticide use reporting.
- Monitoring/surveillance.
- Mitigation of human health risks.

- Mitigation of environmental hazards.
- Pest management.
- Use enforcement and compliance.
- Product compliance and mill assessment.
- Distributed program/executive management and administration.

In 2010, “structural pest control” was added as a business function when the Structural Pest Control Board (SPCB) was transferred to DPR. In fiscal year 2013-14, SPCB was transferred back to the Department of Consumer Affairs.

The functions and their supporting activities represent what DPR does to produce specific services, not how the department is organized. For example, the pesticide registration function contains everything DPR does to register a product. This function includes intake of the application and its technical evaluation, a scientific evaluation of the product and other activities. However, they do not all occur in the Pesticide Registration Branch. For example, health evaluation of a product involves staff from the Worker Health and Safety and Human Health Assessment branches, and for environmental effects, the Environmental Monitoring Branch.

DPR adopted function-based accounting in 2004. The information provided by functional accounting allows DPR to refine its budget and fees to accurately recover costs associated with specific services. In each year’s State Budget, funding is appropriated to DPR based not on its programmatic divisions (such as branches), but on its business functions.

Function-based accounting is linked to DPR’s operational plan, which describes what DPR plans to accomplish during the fiscal year, with performance measures for each function. DPR’s operational plans and performance measures are posted each year on the department’s website, as are the functional accounting year-end reports and detailed descriptions of activities within each function. This allows stakeholders to review specific goals, costs associated with them and clearly see whether goals are being met.



### Number of pesticide products registered in California:

- 1913: “well toward 10,000”
- 1935: 3,500
- 1945: 7,136
- 1950: 9,070
- 1956: 11,904
- 2011: about 13,000
- 2016: 13,600

AB 1011 (Chapter 612, Statutes of 2005) expanded broker licensing requirements to close loopholes in previous laws that allowed some pesticide sellers to avoid paying the mill assessment. Internet sales of pesticides and industrial, institutional and consumer-use pesticide sales by intermediate brokers and through the distribution centers of nationwide retailers were often not held accountable to report and pay mill fees. Before AB 1011 passed, only sellers of agricultural-use pesticides had to be licensed by DPR. The legislation expanded broker licensing to encompass all those who first sell or distribute any pesticides into California, whether agricultural or nonagricultural products.

### Product Registration Fees

Each year, manufacturers, importers or dealers who wish to label and sell a pesticide product for use in California must get certificates of product registration from DPR. The certificates expire Dec. 31 of each year.

Until 2003, registration fees were set in statute. In 1986, the Legislature approved an increase in product registration fees from \$40 to \$200, even though that did not cover program costs at the time. With the 2003 passage of SB 1049, DPR was given authority and required to increase fees to cover program costs.

In 2003, DPR adopted regulations to raise to \$750 the fee for each pesticide product submitted for registration or renewal, effective January 2004. Late penalties were increased to \$150. The department also established a \$100 fee for each application to amend a pesticide product registration. Some minor amendments were exempted.

Effective Oct. 1, 2015, DPR revised its regulations to raise the application fee for each pesticide product submitted for registration or renewal to support current and future business functions of the Pesticide Registration Branch, including the development and implementation of the Pesticide Registration Data Management System (PRDMS) project. PRDMS will take the place of the current paper-based pesticide registration process and allow for new products, and amendments and renewals to currently registered pesticides, to be submitted and accepted electronically. DPR increased the application fee for each new pesticide product submitted for registration and for annual renewal of each pesticide product from \$750 to \$1,150 per product. The department established a \$25 application fee for all pesticide product amendments, including substantive and non-substantive label amendments, amendments to the formulation of the pesticide product, notifications of minor changes, and label changes required by the U.S. Environmental Protection Agency or any other federal or state agency.

The revised fee level generates more than \$15 million a year.

In 2015, the department processed 1,539 applications for registration of new products, 2,895 amendments to registered pesticide products, and renewed the registrations of 13,128 pesticide products.

No fees are charged for applications for Section 18 emergency exemptions from registration, Section 24(c) special local need registrations, and research authorizations.

### Licensing and Certification Fees

DPR’s Licensing and Certification Program examines and licenses qualified applicators, aircraft pilots, pest control dealer designated agents, and agricultural pest control advisers; and certifies pesticide applicators who use or supervise the use of restricted pesticides. It also licenses businesses that sell or apply pesticides or use pest control methods or devices for hire (that is, pest control businesses, maintenance gardener pest control businesses, pest control dealers and pesticide brokers).

Major exemptions from licensing requirements include individuals and businesses performing preservative treatment of fabrics or structural materials; household

or industrial sanitation services; treatment of seed when this activity is incidental to the person's regular business; and removal of pests without the use of pesticides.

DPR conducts about 9,000 examinations yearly and issues or renews about 15,000 licenses and certificates each year. Licenses are issued for two years. DPR also accredits more than 2,200 continuing education courses.

Before 2003, licensing fees were last adjusted in the mid-1980s, set in statute at \$15 to \$100, a level designed to cover program costs at the time. With the implementation of SB 1049, DPR had authority to adjust fees to support spending in each program and charge for services that required significant staff time. In January 2004, the new fees went into effect. They range from \$25 to \$160.

### Local Assistance

Among other duties, CACs are charged with local enforcement of pesticide laws and regulations, working under supervision of and contract with DPR. Funding for local pesticide enforcement comes from four sources: the mill assessment, local fees and penalties, county general funds and unclaimed gas tax. (State law requires that fuel taxes attributable to the use of off-highway agricultural vehicles be transferred to CDFA. Food and Agricultural Code Section 224 identifies how these funds are to be expended, with \$9 million each year going to CACs for pesticide use enforcement.)

The 2004 passage of SB 1107 (Chapter 230) changed how funds were divided among the counties. Among other requirements that had been imposed by the 1978 passage of AB 3765 (which set up the functional equivalency program for pesticide regulation), CACs carry out the restricted materials permit program. They issue site- and time-specific permits for the use of restricted pesticides, review notices of intended applications and perform pre-application site inspections to a minimum of 5 percent of application sites.

In 1980, CDFA (which then managed the pesticide program) contracted with the counties for the state to reimburse the costs of this new mandated workload, drawing from a \$2.88 million General Fund appropriation. The amount remained the same (although its source shifted between the General Fund and the DPR Fund) until the 2004-05 fiscal year. SB 1107, a budget trailer bill, consolidated funding to CACs for restricted material permits with DPR's other CAC funding. Instead of a fixed dollar amount, the appropriation to counties to manage their restricted material permit programs was converted to an extra 1.6 mill, increasing the total CAC share to 7.6 mills. That same legislation also ended the distribution to the counties of 50 percent of pesticide dealer license fees collected by DPR.

DPR disburses to the counties the revenue from 7.6 mills of mill assessment as partial reimbursement for their costs in carrying out pesticide use enforcement. In addition, the law allows DPR to disburse up to 0.5 mill out of existing fees for local assistance to counties in an ozone nonattainment area affected by a fumigant emissions limit. (*See Chapter 10 for more information on the volatile organic compound program.*) As of 2015, no county was eligible for this funding.

Under contract with DPR, CACs are also reimbursed for electronically entering PUR data. In July 2012, the individual contracts for PUR data entry are scheduled for conversion to a single contract with the California Agricultural Commissioners and Sealers Association (CACASA).

By law, pest control advisers (PCAs) and pest control businesses must register with the agricultural commissioner in each county where they plan to conduct business. Most of the state's 58 counties charge fees for these registrations. Counties use this revenue for pesticide use enforcement.



*Noncompliance does not necessarily call for additional or more stringent laws, but more often for education as to observance. Education concerning the purpose of law and with the backing of law can be made exceptionally effective because acceptance usually comes with understanding.*

— Economic Poisons: California Law and Its Administration (1944)