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March 20, 2003

Department of Pesticide Regulation: History, Programs, and LAO Issues

LEGISLATIVE ANALYST'S OFFICE

Presented To:
Assembly Budget Subcommittee No. 3,
Assembly Committee on Agriculture,
Assembly Committee on Environmental Safety and Toxic Materials,
Hons. Pavley, Matthews, and Laird, Chairs

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Department of Pesticide Regulation History

- The Department of Pesticide Regulation (DPR) in the California Environmental Protection Agency (Cal-EPA) was created as part of the Governor's reorganization proposal that created Cal-EPA in 1991. Previously, the state's primary pesticide regulatory function was carried out as a division under the Department of Food and Agriculture.

- The core mission of DPR is to protect human health and the environment by regulating pesticide sales and use and by fostering reduced-risk pest management.

- The DPR has been traditionally funded by a mix of funds, mainly the General Fund and the fee-based DPR Fund. The DPR Fund includes revenues mainly from the mill assessment, but also from other licensing and permit fees. The mill assessment is a fee, originally established in 1971, assessed on each dollar of sales of pesticides for use in California. (One mill is equivalent to \$0.001 or 1/10th of one cent.)

- A portion of the mill assessment rate has been subject to periodic sunset dates. The current mill rate of 17.5 mills (1.75 cents per dollar of sales) will revert to a 9 mill rate in July 2004.

- Enforcement of pesticide use regulations primarily takes place at the local level, with oversight by the department. The County Agriculture Commissioners (CACs) work in concert with the department and are primarily responsible for permitting and enforcement. The CACs receive, by statute, revenues from 6 mills of the total mill assessment.

- The "AB 780 Report" requirement (Chapter 523, Statutes of 2001 [AB 780, Thomson]), required the department to report to the Legislature by January 1, 2003 (prior to budget hearings) on the appropriate, long-term funding sources and levels needed to support the pesticide program. This report was released on Wednesday, March 19, 2003.

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Department of Pesticide Regulation Statutory Mandates

- The department's key mandates are set forth in Food and Agriculture Code Section 11501. These core mandates include pesticide product evaluation and registration, statewide licensing of commercial pesticide applicators and professionals, evaluation of health impacts of pesticides, environmental monitoring, produce monitoring (for pesticide residue), and field enforcement (with CACs) of laws regulating pesticide use.

- The Toxic Air Contaminant Act (Chapter 1047, Statutes of 1983 [AB 1807, Tanner]), creates a framework for the evaluation and control of chemicals, including pesticides, that are determined to be 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 (Chapter 669, Statutes of 1984 [SB 950, Petris]), requires that DPR obtain a full complement of chronic health effects studies on pesticide 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 (Chapter 1298, Statutes of 1985 [AB 2021, Connelly]), established a process designed to prevent further pollution of ground water by agricultural pesticides.

- Other core mandates include the Food Safety Act of 1989, mandating monitoring of dietary risks of ingesting pesticides, and the Healthy Schools Act of 2000 (Chapter 718, Statutes of 2000 [AB 2260, Shelley]), intended to reduce the risk of pesticides in and around schools.

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Department of Pesticide Regulation Core Programs

- ***Pesticide Registration.*** In order for a pesticide manufacturer to sell a pesticide product in California, it must register the product with the department. The department provides scientific review to determine application procedures which are then included on the product label prior to sale. The department coordinates with the Office of Environmental Health Hazard Assessment to fulfill its mandate to have its pesticide risk assessments peer reviewed.

- ***Environmental and Pesticide Use Monitoring.*** The DPR identifies and characterizes pesticide residues in surface and ground water. The DPR coordinates with the State Water Resources Control Board to establish total maximum daily loads (TMDLs) for pesticides in water bodies and with the Air Resources Board for monitoring TACs. The department also tracks and reports pesticide use in agriculture and commercial applications.

- ***Permitting and Enforcement.*** While DPR is ultimately responsible for ensuring compliance with state pesticide laws, enforcement activities are carried out jointly by the department and the CACs. The state is responsible for overseeing the counties' enforcement efforts.

- ***Worker Health and Safety, Illness Monitoring.*** The DPR provides guidelines, conducts training, and conducts enforcement related to pesticide-related worker health and safety. The department also records, investigates, and tracks pesticide-related illnesses in both agricultural and nonagricultural settings.

- ***Pest Management Grants.*** The department has awarded grants to develop and demonstrate reduced-risk pest management practices. This program was suspended in 2002 due to budget reductions and funding is proposed to be eliminated in the 2003-04 budget.

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Department of Pesticide Regulation Ten-Year Expenditures

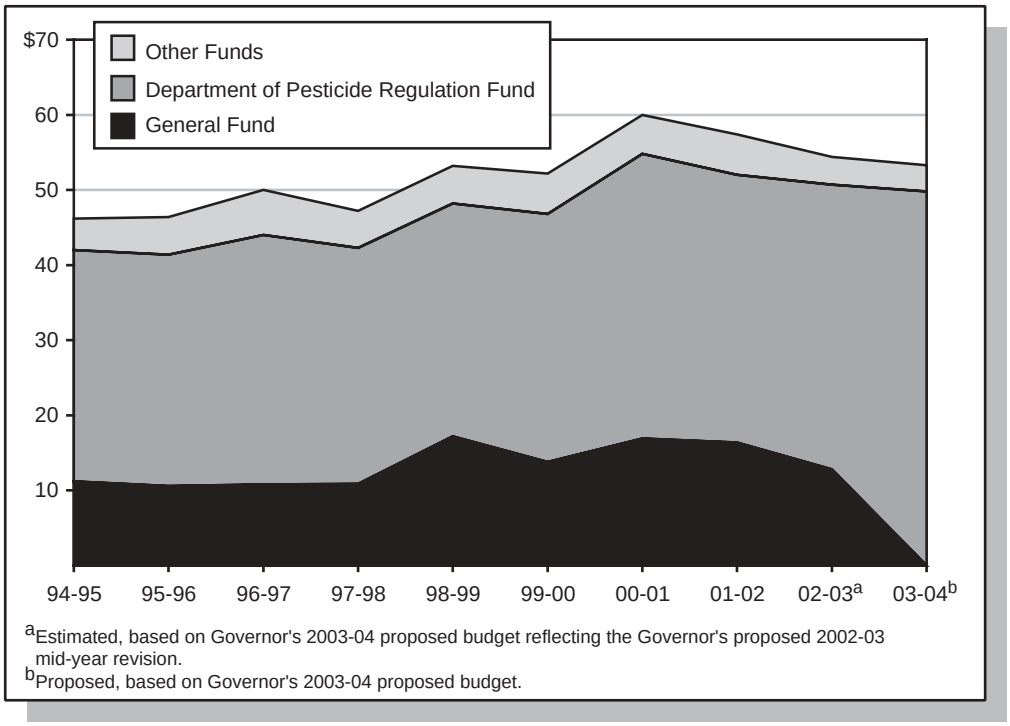
(In Millions)

Year	General Fund		DPR Fund		Other Funds		Total Funds
	Amount	Percent of Total Funding	Amount	Percent of Total Funding	Amount	Percent of Total Funding	
1994-95	$11.2	24%	$30.8	67%	$4.2	9%	$46.2
1995-96	10.6	23	30.8	66	5.0	11	46.4
1996-97	10.8	22	33.2	66	6.0	12	50.0
1997-98	10.9	23	31.4	67	4.9	10	47.2
1998-99	17.2	32	31.0	58	5.0	10	53.2
1999-00	13.8	27	33.0	63	5.4	10	52.2
2000-01	16.9	28	37.9	63	5.2	9	60.0
2001-02	16.4	28	35.6	62	5.4	9	57.4
2002-03[a]	12.8	23	37.9	70	3.7	7	54.4
2003-04[b]	—	—	49.8	93	3.5	7	53.3

[a] Estimated, based on Governor's 2003-04 proposed budget.
[b] Proposed, based on Governor's 2003-04 proposed budget.

Department of Pesticide Regulation Ten-Year Expenditures

(In Millions)



[a]Estimated, based on Governor's 2003-04 proposed budget reflecting the Governor's proposed 2002-03 mid-year revision.
[b]Proposed, based on Governor's 2003-04 proposed budget.

☑ This graph shows the trend of the three major funding sources for the department over the past ten years. As proposed, the General Fund is virtually eliminated in the 2003-04 proposed budget.

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Recent Major Budget Reductions and Proposed Reductions

☑ The Governor's 2003-04 budget reflects a cumulation of about $7 million in program reductions in DPR approved by the Legislature between 2000-01 and 2002-03 and proposed by the Governor in 2003-04. These reductions include:

- A $1 million permanent reduction in the registration program made in 2002-03, eliminating a program that allowed for expedited registration of reduced-risk pesticides and reducing review of toxicology data for adverse effects determinations.
- A $1.5 million reduction for Pest Management Grants and Pest Management Alliance programs made in 2002-03 which suspended funding for this program. The Governor's 2003-04 budget proposes to permanently eliminate this funding.
- A $698,000 reduction in produce monitoring made in 2002-03, thereby eliminating produce sampling by CACs. This reduction is proposed to increase by an additional $1 million in 2003-04, thereby eliminating the Marketplace Surveillance Residue Program.
- A $833,000 reduction in air sampling and analysis programs, including reductions in the number of TACs reviewed and environmental fate risk assessments conducted, made/proposed in 2002-03 and 2003-04.
- A $368,000 reduction (50 percent) in ground water monitoring and development of potential mitigation measures, made/proposed in 2002-03 and 2003-04.
- A $2 million reduction in DPR's surface water program, including an elimination of $820,000 in contracts that support the development of TMDLs at the State Water Resources Control Board, made/proposed in 2002-03 and 2003-04.

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Governor's Proposal to Shift Essentially All Funding to Fees

- The Governor's 2003-04 budget proposal creates General Fund savings of $10.5 million by increasing the level of fee-based support for the department, essentially eliminating all General Fund support of the department.

- The budget proposal raises the statutory cap on the mill fee from 17.5 mills to 27 mills ($0.0175 to $0.027), while allowing the department, through the regulatory process, to set the mill rate each year depending upon projected revenues raised by each mill of the fee. For the proposed 2003-04 budget, a 25 mill assessment ($0.025) is estimated to cover state costs.

- The budget also proposes to increase fees on most licenses issued by the department. The proposal calculates the new fee amounts by applying a cost-of-living adjustment from the time that the new fees were last raised (mainly 1986 and 1987). The proposal also gives the department the authority to raise fees on licenses by regulation.

- The budget proposal does not include an increase in registration fees for the registration program.

LAO Recommendation: Different Mixture of Fees to Generate Proposed Revenue Increase

- The Governor's fee proposal does not include an increase in registration fees. In effect, approximately $6.6 million in currently General Funded registration program costs will be replaced with funding from the mill fee.

- We recommend that in enacting fee legislation, the Legislature increase registration fees to cover the cost of the registration program. The registration program is currently budgeted at $9 million, of which $2.4 million comes from a $200 fee on registration applications. According to the department, each $100 increase in registration fees would raise approximately $1.2 million annually.

- Restricted materials—those pesticides deemed to present special hazards to health or environment if misused—require significantly more staff time than other pesticides, both at the state and CAC level. We believe that the registration fee structure should reflect the higher program costs associated with restricted materials. We therefore recommend the enactment of legislation establishing a tiered structure for the registration fee so that a higher fee is imposed on registrations involving restricted materials.

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LAO Recommendation: Governor's Fee Proposal Is Step In Right Direction, But Should Go Further

- ☑ The Governor's fee proposal is a step in the right direction. We have previously recommended that the pesticide regulatory program be fully funded by fees. (Please see our *Analysis of the 1992-93 Budget Bill*, page IV-104.)

- ☑ The pesticide-related workload of other state agencies (shown in an updated chart on the next page) should also be fee based. This includes work by the Air Resources Board, Department of Fish and Game, Office of Environmental Health Hazard Assessment, State Water Resources Control Board, and the Department of Health Services.

- ☑ We therefore recommend the enactment of legislation increasing pesticide fees, including the mill assessment, to fully cover the cost of pesticide-related programs in these other state agencies. We recommend that direct appropriations from the DPR Fund be made to these other agencies, as opposed to these agencies being reimbursed for their costs from DPR.

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LAO Recommendation: Governor's Fee Proposal Is Step In Right Direction, But Should Go Further

(Revised, March 17, 2003)

Proposed Pesticide-Related Expenditures By State Agencies Other Than Department of Pesticide Regulation

(In Millions)

Types of Pesticide Work Conducted	2003-04 Proposed Expenditures
State Water Resources Control Board	**$2.0[a]**
• Development of total maximum daily loads • Impaired water body listings	
Department of Health Services	**0.6[b]**
• Laboratory work for pesticide illness survey • Farm worker health • Analysis of pesticide use • Environmental Laboratory Accreditation Program • Sentinal Event Notification of Occupational Risk (SENSOR) Pesticide Poisoning Prevention Project	
Office of Environmental Health Hazard Assessment	**0.6[b]**
• Worker health and safety • Physician training and medical supervision program • Pesticide and food toxicity, risk assessment, and peer review • Emergency response • Drinking water and cancer toxicology and epidemiology	
Department of Fish and Game	**0.2[c]**
• Aquatic bio-assessment laboratory • Emergency response and analysis • Planning and permitting related to fish and wildlife habitat	
Air Resources Board	**0.1[d]**
• Ambient air monitoring • Toxic air contaminants	

a Legislative Analyst's Office estimate; funding is General Fund.
b General Fund.
c Fish and Game Preservation Fund ($100,000) and General Fund ($70,000).
d Motor Vehicle Account ($27,000) and General Fund ($18,000).