

Unsustainable: The problem with California's green regulations

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In December of 2010, the California State Board of Food and Agriculture published results of a two-year investigation into how the state could promote better agricultural policies. One theme of the final report, "California Agricultural Vision: Strategies for Sustainability" is that efforts should be made to make farming more environmentally friendly - for example, expanding the use of renewable energy and increasing environmental stewardship of farmland.

However, despite emphasizing a number of "green" goals, "Strategies for Sustainability" also makes a notable criticism of California's environmental regulation of agriculture. In one section, the report cites environmental and other rules as "often duplicative, conflicting, uncoordinated, inflexible, inconsistently administered or needlessly burdensome." According to the report, state regulations sometimes even hinder the objectives they're supposed to achieve.

Those criticisms are echoed by an environmentalist who worked on the report - Ashley Boren, executive director of the San Francisco-based non-profit "Sustainable Conservation." Boren is now working on a follow-up effort to figure out how to address problems identified in the report, specifically with regard to environmental rules. Boren, who spends time working with farmers through Sustainable Conservation to promote more eco-friendly practices, said the state's "green" goals are well-intentioned. But she said her experiences have led her to believe California's policymakers need to reform the way the state implements environmental rules.

"You can have cross-regulatory conflicts, rules that prevent issues from being addressed because they're too burdensome, and then you also get regulations layered one over another," she said.

The problem for farmers is compounded by the fact that within the past decade, California agencies have implemented some of the strictest environmental rules for agriculture in the nation. Representatives with organizations such as the California Farm Bureau Federation and Western

Growers Association say that as a result, agricultural business costs have increased substantially. The State Board of Food and Agriculture's report asserts that California agricultural businesses are the most heavily regulated in the country, and collectively pay \$2.2 billion dollars each year to comply with state rules, including environmental regulations.

Boren said many of the rules that are burdensome to farmers also impede protection of the environment. For example, her group worked in Santa Cruz County in northern California to help farmers who wanted to prevent erosion of their land by streams, a necessary step to protect water from contamination by soil containing fertilizers and pesticides. But many farmers weren't able to make improvements because of the complicated permitting processes required.

"You have to go to up to seven different agencies just to get permits," Boren said. "It's legal to let your land erode, but it's not to do something about it without these rules."

Boren said problems with conflicting and burdensome regulations are systemic, and require new approaches to crafting and reviewing environmental rules.

"We need to step back and make sure these regulations are meeting their intended outcomes," she said.

Growing chorus of critics

It's typically businesses in California that complain about the state's green policies; California has some of the strictest environmental laws in the nation, from its ambitious 2006 law to combat global warming by reducing greenhouse gas emissions –AB 32- to its stringent air pollution rules.

But concern about California's environmental regulations isn't only being voiced by business interests. In addition to issues raised by Sustainable Conservation and the State Board of Food and Agriculture, the California Roundtable for Ag and the Environment in December of 2010 released a report identifying the state's own permitting processes as obstacles to environmental improvement of farms. The "Little Hoover Commission," a state agency that examines state policies and offers recommendations on how they can be improved, late last year began working on a report for fall of 2011 to detail ways California's overall regulatory system can be improved. Stuart Drown, executive director of Little Hoover, said its hearings on the matter in late 2010 and earlier this year had included testimony regarding California's environmental policies.

"(Environmental regulation) has been a perennial complaint of business in California," he said.

Built-up frustration with California's regulatory climate has also resulted in business interests in the state coordinating with mainly Republican legislators to push for more lenient regulations, including environmental rules. Business lobbies ranging from agriculture to manufacturing have used anxiety over the state's economy -California's unemployment rate was over 12 percent in January- to urge lawmakers in Sacramento to support legislation they argue would make the state more business-friendly.

Dorothy Rothrock with the California Manufacturers and Technology Association, a lobby for California technology companies, has been a coordinator of that coalition. Regarding environmental

rules, she said a chief complaint among businesses was that California implements policies that are unnecessarily strict.

“California has some of the most stringent environmental regulations in the world,” Rothrock said. “What we oppose and have trouble with is when we think the efforts on the environmental front go forward without the science backing it up and the economics understood.”

Concern over the cost of regulation to the economy has grown to the point where even some environmentally minded Democrats in the Golden State have even taken action. For example, earlier this year Senator Fran Pavley, who co-authored AB 32, joined fellow state senate Democrats Darrell Steinberg and Ron Calderon in co-authoring a bill -SB 366- to require a broad review and consolidation of state regulations.

Environmental organizations worry that an anti-regulatory backlash could threaten environmental goals. Bill McGavern of Sierra Club California said many reform bills backed by business interests this year had been blatant attempts to roll back environmental initiatives.

“There’s a bill ... SB 591, ‘The California Smart Regulation Act,’” McGavern said. “Before it was amended, it said every agency shall reduce the total number of regulations by 33 percent. Just gave a completely arbitrary number. That’s the opposite of smart regulation.”

After decades of fighting against business interests to advance environmental causes, many environmentalists are less than sympathetic to complaints by industries such as agriculture that the state’s rules are burdensome or too costly.

“There’s really not much credible evidence that the regulatory system - at least when it comes to the environment - is doing any damage to the economy,” McGavern said.

Boren was also critical of many of the recent legislative attempts to revise the state’s regulatory processes. But she said problems with regulation needed to be addressed.

“There’s room for improvement there that will lead to better environmental outcomes,” she said.

Conflicts, errors and controversy

California has long held a position of national leadership in promoting environmental policies. The state has aggressive green building regulations, the most powerful state air quality agency in the nation – CARB, the California Air Resources Board- and crafted the famous “California Environmental Quality Act,” a 1970 law which established some of the earliest and strictest standards in the country for environmental review of proposed projects. California’s legislature has invested in “green” electricity, banning new coal and nuclear plants while subsidizing wind and solar power.

California’s emphasis on environmental protectionism isn’t simply a practical matter, but benefits from a sort of popular Zeitgeist as well. Many Californians pride themselves on their state’s proactive stance in its crafting of environmental policies - a 2010 report by the Public Policy Institute of California, a nonprofit research and polling organization, showed a majority of Californians support restricting offshore drilling, expanding renewable energy production, tougher vehicle emissions

standards and the state's efforts to curb global warming. Politicians often brag about their commitment to the environment. In 2010, the campaign for current governor Jerry Brown boasted his clean energy plan would add 500,000 jobs to the state's economy over the next 10 years.

But California's image as a "green" policy trendsetter belies the reality that its system of environmental laws and regulations imposes costs on businesses disproportionate to those of many other states. In addition to claims that it is plagued by conflicting and duplicative regulations, it has at times also pursued costly policies based on what was later revealed to be flawed or incomplete science.

In many ways, the case of California farmers and agricultural businesses is a prime example. After decades of comparably light environmental regulation -at least in relation to other state industries- farmers in recent years have faced a sudden spate of new laws and rules targeting their impact on the state's environment, which is beset by some of the worst air quality in the nation, as well as groundwater in many areas that has been contaminated by chemicals linked to agriculture.

But the policies implemented to solve these problems have given rise to numerous controversies in recent years. It's not unusual for one agency's regulations to seek to address one type of pollution while exacerbating problems involving a different one. Researchers at some of the state's top agricultural research schools have at times criticized various farming regulations for relying on flawed studies or being unrealistically strict. And farmers complain that many new rules overestimate the impact of agricultural practices on the environment, and prescribe burdensome and sometimes ineffective remedies.

A relatively recent high-profile case where flawed data was used to craft regulations impacting businesses including agriculture involved the California Air Resources Board, which is responsible for creating policies to reduce air pollution statewide. The board had to significantly amend new diesel regulations for construction equipment and trucks -among the strictest in the nation- in 2010, when research by the agency was found to have substantially overstated diesel emissions by those types of vehicles in California.

Diesel emissions

CARB has been working for years to implement new regulations to cut diesel emissions from different sources. The air board took action to approve new regulations increasing restrictions on diesel emissions from off-road construction equipment in 2007, and on-road trucks in 2008. The new rules imposed significant costs on businesses, requiring many to make expensive modifications to engines, or even buy new vehicles, in order to meet the new standards over a period of several years.

A controversy arose in 2009, as the air board faced criticism when it was revealed one researcher involved in work studying diesel emission-related health effects had lied about his education, prompting CARB to order the study he'd been involved with redone. The off-road construction equipment rule next became subject to scrutiny after the release of an independent report in 2009 by two environmental scientists at UC Berkeley, Dev Millstein, a doctoral student, and Robert Harley, professor of environmental engineering. Their study showed the air board had relied upon flawed

methods of estimating emissions from off-road construction equipment, contributing to emissions estimates that were found ultimately to have been over three times too high. The air board scrambled to review its data, and also found problems with its emissions estimates for trucks, which were exaggerated primarily because the collapse in the economy had reduced trucking activity, according to Tony Brasil, chief of CARB's Heavy Duty Diesel Implementation Branch.

"It was based on the best information at the time," Brasil said. "The older information was not as accurate as we'd like."

The mix-up forced the board to amend the truck and construction equipment regulations, for example, extending the implementation timelines for both.

Harley said the error in CARB's methodology was longstanding, not the result of rushing the process, but the miscalculation resulted in criticism that the air board was putting in place ambitious environmental rules without adequate review. Harley said the mistake could have been costly to businesses.

"(Industry's complaint was), why should they replace or retrofit this off-road equipment at great expense if the emissions were much lower than originally understood? The air quality benefits would not be as large as anticipated," Harley said in an email response.

An emissions rule that would impact farm equipment won't be proposed until 2013, while the air board works to accurately gauge how much is operating in the state.

Problems with the science behind some environmental regulations don't only unnecessarily burden businesses – as noted by Boren, the issue also impedes the ability of rules to effectively combat environmental problems as well. One such example occurred several years back in the San Joaquin Valley area.

Michael Marsh, president of Western United Dairymen, an organization representing some 60 percent of dairy farmers in California, said in 2004 the San Joaquin Valley Air Pollution Control District - the regional air quality agency - was considering requiring that dairy farmers employ costly strategies to control the creation of Volatile Organic Compounds. VOCs are chemicals involved in the formation of smog. The air district believed they were coming from cow manure on dairies, and as a result, expensive solutions being considered included requiring that some new dairies install methane digesters, according to Sheraz Gill, Senior Air Quality Engineer for the district. Methane digesters are machines costing upwards of \$1 million that are used to convert cow manure into methane gas that can be burned off, which the air board believed would eliminate VOCs.

Questioning the air board

However, independent studies by Professor Frank Mitloehner, an air quality specialist at the University of California, Davis, threw into question the air board's plans. Mitloehner showed that cow manure produces less VOCs than was previously thought, and that a major source from dairies wasn't manure, but rotting feed in storage facilities on the farms. It was also found that VOCs from cow manure were already being broken down in dairy waste ponds, and that a low-cost way of dealing

with VOCs produced by cow waste is simply to use water to flush out manure to those ponds. Installing digesters would have been an expensive and ineffective option.

“But before that, there was going to be this mandate ... that was going to cost farmers millions, that wouldn’t have done anything to mitigate these emissions,” Marsh said, referring to the proposed methane digester rule. The air board ultimately relented on pursuing that requirement.

But there was an even bigger problem with the air district’s science. Mitloehner said research showed that even the elimination of Volatile Organic Compounds from dairy farms would likely have little impact on smog formation in San Joaquin, because VOCs are also produced in large quantities naturally. Rather, pursuing stepped up regulation of nitrous oxides (NOx) emissions, a type of smog-forming pollutant produced mainly by human activity, offered the agency the best chance of mitigating air contamination, he said. Ironically, NOx are produced in significant quantities by digesters.

The California dairy industry’s experience with methane digesters also provides an example of the problematic conflicts that arise between state environmental agencies pursuing different objectives. Although digesters would have been ineffective at reducing VOCs in San Joaquin, statewide the technology is seen by some environmentalists as a promising tool for combating greenhouse gas emissions, as they can be used not only to eliminate methane, a particularly virulent greenhouse gas, but also to produce renewable energy, by burning the gas in generators to produce electricity. CARB, which is responsible for implementing AB 32, the California Global Warming Solutions Act, has promoted digesters as a means of mitigating emissions.

But dairies that have taken the lead in voluntarily installing costly digesters to reduce their emissions and test the economic viability of the technology have met with hurdles posed by local air quality district regulations, which are now concerned with controlling NOx emissions. Some have ceased operating their digesters as a result.

Ron Koetsier, a dairy farmer in Tulare County in the state’s Central Valley Area, said he decided to shut his digester down permanently in July 2008 when the San Joaquin air district came up with a rule that required dairies make expensive modifications to their digester equipment, such as installing catalytic converters on generators. The rule went into effect in 2009.

“When that rule came out from the air board, we had to shut it off,” Koetsier said. “I wasn’t about to spend another \$150,000 for something that wasn’t going to pencil out any more anyway.”

Strict emissions guidelines

Dave Warner with the San Joaquin air district said the agency supports farmers’ efforts to install digesters, but that it has to meet federal standards to eliminate air pollution, or face costly penalties. Meeting those standards has proven difficult in San Joaquin due to natural conditions in the area that trap polluted air. As a result, the district has sought to ensure methane digesters meet strict emissions guidelines - Warner said otherwise, they could become a significant contributor to smog.

“We’ve been working with folks that do want to put in power-production operations at their dairies to

make sure they can do so in compliance with air quality regulations,” Warner said.

John Fiscalini, a dairy farmer in the city of Modesto, also in the Central Valley, has run a catalytic converter-equipped methane digester since 2009, after numerous delays caused by regulatory issues. He said the price of the catalytic converters required by the air district’s rules contributed to the system costing more than it brought in, and that operating it forced him to spend a significant amount of time dealing with the district’s concerns. He said on one hand, the state air board had encouraged dairies to invest in digesters to eliminate methane, but then the local air district had slapped them with added costs for their troubles.

“It bothers me we don’t get credit for reducing greenhouse gasses,” he said. “The air board only cares about NOx.”

Interest in digesters among dairies has slumped, partly due to an energy market that is stacked against small producers, but also due to such regulations. Boren said efforts were underway to find more affordable, reliable NOx emissions-reducing equipment. Koetsier also said he’d been contacted by a couple of companies interested in the possibility of taking over operation of his digester to produce renewable energy - a development that may indicate future prospects for the technology. However, as of mid-July he said the system was still idle.

The dairy digester issue isn’t the only example of conflicting policies hampering environmental ambitions and frustrating agricultural businesses. Professor Jay Noel, head of the agribusiness department at the California Polytechnic State University, one of the nation’s leading agricultural schools, has studied California’s regulation of farming. He cited a case in Stanislaus County in the Central Valley where an agricultural composting program run by Stanislaus with the participation of local fruit canneries -part of the county’s efforts to meet state mandated recycling requirements- was threatened by the Central Valley Regional Water Quality Control Board pursuing its own environmental priorities.

Recycling contamination?

Organic byproducts from fruits such as tomatoes and peaches were introduced onto farmland in the area, helping to enrich the soil and saving canneries the cost of disposing of the waste. However, around 2005 the regional water board became concerned the compost material might contaminate groundwater in the area. The board intended to treat the material as “industrial waste,” according to Sonya Harrigfeld, Director of Environmental Resources for the county. The board initially wanted expensive testing to take place to measure the composting program’s impact on groundwater – action the county maintained wasn’t necessary.

“The (initial) concern the regional board had was the nitrogen level in food-processing byproducts (that might seep into groundwater),” Harrigfeld said. “And we said, ‘Hold on, the percent nitrogen available isn’t even close’” to the levels necessary to pose a risk.

The water board’s groundwater testing requirements would have been extremely expensive, according to Harrigfeld. That threatened to end participation in the program by canneries, which instead would have had to pay fleets of trucks to carry fruit pits, juice and skins to distant dumps.

“You have two conflicts; the integrated waste management board not wanting waste to go into the landfill, the water board worried about groundwater, and now potentially the issue of air quality being affected,” Noel said.

The threat of losing the program resulted in significant outcry by farmers and canneries - a 2007 report authored in part by Professor Sean Hurley, a colleague of Noel’s at CalPoly, said some canneries were considering leaving the county if the money-saving recycling program didn’t continue.

The water board’s position was protested by the county, which was able to compile data showing the board’s concerns regarding the risks posed to groundwater were largely unfounded, Harrigfeld said. The board ultimately granted a conditional waiver that allowed the program to continue with less expensive testing requirements than had been originally proposed.

Not all conflicts caused by the state’s environmental rules involve purely environmental matters. According to Richard Quandt, president of the Grower-Shipper Association of San Luis Obispo and Santa Barbara Counties, water regulations proposed by the Central Coast Regional Water Quality Control Board include one rule that runs counter to industry health and safety practices.

The water rules proposed by the board were set to be considered Sept. 1. (The proposal has since been postponed due to a lack of a quorum of members that can vote on the issue.) The rules have been a source of ongoing controversy, and would impact farmers throughout the Central Coast region, an area stretching from Santa Clara County to the north and Santa Barbara County to the south. The prospective regulations are largely concerned with water contamination that comes from agriculture, including pesticides and fertilizers. One of the requirements being considered would mandate that some farmers maintain 30 to 50-foot buffers of vegetated land between portions of their crop acreage and certain adjacent bodies of water. The buffers would protect water from contamination from farms.

“That (requirement) in and of itself poses a conflict with food safety concerns,” Quandt said. “We’ve been told we need to start eliminating these vegetative areas for food safety purposes.”

Riparian buffers

Quandt said the riparian buffers required by the water board’s rule are concerning to major produce purchasers, because the buffers attract animals into the fields which can introduce feces and pathogens into the crops. Buyers have been pressuring farmers to eliminate the type of buffer zones that the water board’s rule would require. Resolving the conflict may ultimately cost the farmers caught in the middle, forcing them to pay for expensive fencing along areas where buffer zones would be created, in order to keep animals out.

The proposed rules by the Central Coast water board also contain a requirement that has been challenged by farmers and agricultural experts as unachievable – a rule which would ultimately mandate water that leaves farms meet drinking water quality standards in terms of its chemical content.

Meeting that strict requirement would be extremely difficult for growers, who use pesticides and

fertilizers to protect and grow their crops. One of the concerns farmers have regarding the rule is that - in addition to limits on other chemicals - it would require the amount of nitrate in water discharged by farms be very low. Nitrates are a major focus of the water board's new rules – they are chemicals that have built up in the groundwater in many areas of the state, posing both environmental and health problems. They are harmful if consumed in high quantities, causing sickness, chronic health conditions and even death in some cases. However, among other sources, they also come from fertilizers, which are essential for growing crops.

Among other concerns, Central Coast farmers worry the drinking water quality standard, if enforced, would severely restrict the amount of fertilizer they could use, threatening their ability to grow marketable produce. The only other options farms with water that doesn't meet the drinking water standard have is to treat all the water that comes off of their farms or prevent water discharges completely - which isn't doable, according to Kevin Merrill, a Santa Barbara County grape grower. In lieu of those alternatives, farmers must try and reduce the amount of chemicals in their water through input - and Merrill said soil in many areas is so contaminated from decades of fertilizer-use by past agricultural operations that nitrate levels in water discharged from those farms is high regardless of current growers' activities.

Kirk Schmidt, who runs Central Coast Water Quality Preservation, Inc., a water testing co-operative used by farmers to comply with current water testing requirements, said the drinking water standard is infeasible.

Infeasible standards

“(Meeting regulatory goals) economically is even harder to reach than technically,” he said. “We can't even reach (this standard) technically. There's no one who's done research in the field who believes we can meet that goal.”

David Clegern with the State Water Resources Control Board said the Central Coast board had taken farmers' concerns into account in developing the proposed rules, even implementing some of the input it had received - for example, in its use of a three-tiered approach when evaluating what regulations to apply to different farms based on the risk they pose to the region's water quality. But he said nitrate contamination of water in the area is a serious environmental and health problem that needs to be addressed. Clegern said application of the drinking water standard to water from farms is necessary to rehabilitate the contaminated land and protect nearby water sources.

But some of the criticisms by farmers of the board's proposed rules have been backed by a number of researchers. In 2010, academics including Professor Tim Hartz, a specialist in vegetable crop farming at the UC Davis, sent a letter to the water regulators expressing concerns about some of the policies being considered. The drinking water standard was cited as problematic.

“In the context of NO₃-N [nitrates] the implication is that the 10 [parts per million] standard [the drinking water standard] would apply to each and every discharge event,” such as irrigation or rainfall that seeps below plants' roots, the letter said. According to the researchers, this is “an impossible standard to consistently meet in a row crop context.”

The letter also warned the board that its new regulations might be too focused on fertilizers to effectively address the problem of nitrate contamination of the region's groundwater. According to the researchers, fertilizers from farming in the area are only one source of nitrates.

"While there is ample evidence that nitrate in agricultural waste water originates at least in part from the use of nitrogen fertilizers, there is much less evidence that nitrogen fertilizers are a significant source of nitrate contamination in groundwater," the letter said.

If farming isn't the only major contributor, the water board's rule might be costly to farms, but ultimately fail to achieve the goal of cleaning up drinking water in the region. Nonetheless, despite recent amendments to the proposed regulations, the board hasn't relented on the rule, or other controversial proposed requirements, such as expensive water quality monitoring. Some farmers, like Chris Darway, a vegetable farmer in San Luis Obispo County, say the new rules as envisioned would likely drive many growers out of business.

"What's been proposed, I don't see how we could conform," he said. "I don't see smaller farmers continuing."

A heavy cost to agriculture

Many of California's leaders tout the state's strict regulations as proof of forward-thinking on environmental issues. But as examples show, problems with environmental regulations often undermine environmental objectives. The regulatory burden caused by questionable policies is also significant for farmers - the cost of California's ever accumulating regimen of environmental and other rules is taking its toll.

Mechel Paggi, director of the Center for Agricultural Business at California State University, Fresno, another leading agricultural school, has also studied the impact of California's regulatory system on agricultural businesses, and said regulations are helping to drive away the state's next generation of farmers.

"The demographic profile is aging in the agricultural community," Paggi said. "Less kids are picking it up."

Darway in San Luis Obispo said his son had early on left to pursue a different career; the regulatory burden that came with farming hadn't appealed to him, Darway said.

Marsh with Western United Dairymen said many dairies are moving out of state.

"If I was a dairy farmer with a child, looking to get into this to continue the legacy, I'd tell him to look to greener pastures," he said.

The loss of farmland in of itself is a concern to some environmentalists as well. Farms often serve as "buffers" for adjacent open-space areas, protecting wildland from being disturbed, and helping to keep rural areas undeveloped. But reports indicate farmland loss in California continues to be a problem; according to the National Resources Inventory by the United States Department of Agriculture, California is among those states that have suffered the greatest loss of farmland in recent

years.

“Small farmers don’t have a lot of resources to deal with compliance for all these laws and regulations,” Boren said.

The roots of the problem

There is no single explanation as to the source of California’s regulatory problems. But one common complaint is that California’s environmental agencies are organized with too exclusive a focus on a given environmental medium, such as water or air, and that they do not coordinate with each other effectively.

“If you were going to design our regulatory system today, it wouldn’t look much like it looks like now,” Boren said. “We’re a lot more knowledgeable right now about how issues in the environment affect each other. Water and air are all involved, as you know. But in California, a lot of these agencies are siloed.”

That arrangement is a major reason for policies that conflict and duplicate requirements, she said.

“(Environmental agencies and legislators are) putting in place very well-intentioned regulations, but they’re not really thinking about how it relates to the regulations already existing for other (environmental resources) – how they interact, how they might conflict,” she said.

McGavern with Sierra Club California also identified isolation between agencies as a major complaint of his organization.

“The silo-ization in California of environmental agencies has been a big concern of ours, and anyone who spends time (working with the California Environmental Protection Agency) is aware of it,” McGavern said. “You have separation and turf battles and overlapping that doesn’t make sense.”

Insufficient evaluation of regulations

Noel at Cal Poly said the situation with the recycling program in Stanislaus, where an effort to protect regional water quality threatened county recycling goals, local agribusiness, and to a limited extent, even air quality, showed that there is sometimes insufficient evaluation of regulations’ unintended consequences.

“It demonstrates, when you put forth these regulations, I’m not sure there’s a tremendous amount of investigation into the additional costs or benefits measured,” he said.

Noel said there is also a need for environmental regulations to be considered in conjunction with other priorities, including the need for a healthy agricultural economy. But he said some parties pursue environmental objectives to the exclusion of all others.

“There’s a lot of pride on the part of various political groups and special interests that ‘California leads the way, and others follow,’” Noel said. But “Sustainability is a three-legged stool: environmental, social and economic sustainability.”

The laws behind regulations also create problems. Mitloehner at UC Davis said he believed the flaws with the San Joaquin air district's initial approach to regulating dairies resulted from the 2003 law, SB 700, that required regulation of agricultural sources of air pollution in California. He said it hadn't allowed the air board time to adequately study the issue.

"Senate Bill 700, authored by (former state senator Dean) Florez, mandated (air boards) to regulate agriculture like any other industry, and the problem is they've previously never regulated agriculture," Mitloehner said. "They don't have that background in what kinds of emissions are coming from what sources and how they can be mitigated."

Paggi at CSU Fresno said he believed that California's legislators and regulators are too quick to push the envelope before the science and impact of environmental policies are understood. Paggi cited AB 32 as an example – the law is supposed to exempt farmers, but the trickle-down costs will cut farmers' profits significantly in the long run, he said.

"People I think sometimes make decisions on less than full information," Paggi said.

Moving forward

For her part, Boren said she's working to encourage action be taken to remedy the problems with environmental rules identified in the food and agriculture board report. That requires building a coalition of stakeholders – in addition to getting agricultural businesses onboard, Boren said she is working to convince other environmental groups that there is a real need to address problems with state regulations.

"If you're an environmental advocate who feels very strongly about protecting air quality and water quality, you want to see strong environmental laws," she said. "But if you're not actually working in those businesses that are having to operate day-to-day and understanding what the impact is, you don't understand why there would be a need to modify or tweak them to make them more effective."

Some reforms may result from the work being done by groups such as Sustainable Conservation, the California State Board of Food and Agriculture and the California Roundtable for Ag and the Environment. The Little Hoover Commission report may also help guide policymakers in addressing problems with the state's regulations.

Reform could also come from the legislative efforts being backed by private interests. Business lobbyists such as Rothrock with the California Manufacturers and Technology Association are seeking to address businesses' complaints about regulatory hurdles – California was voted the least business-friendly state in the nation by CEO Magazine last year – and claim that a more lenient regulatory environment will help turn around the state's economy.

Business advocates are now two years into their campaign to lighten the regulatory load in California. Despite the death and postponement of a number of the bills supported by the coalition, Rothrock is optimistic the poor economy is tilting the political climate in Sacramento in industry lobbyists' favor.

"When everyone is doing well, you manage these new costly regulations ... When it gets problematic, people say, 'Geez, I can't stay in business anymore,'" Rothrock said. "These things will cause

legislators to want to act.”

This year saw more politicians emphasize the need for regulatory reform, she said.

“Legislators are putting this in their campaigns more than in the past,” she said. “This year we saw those regulatory reform proposals in the budget discussion.”

That occurred when Gov. Jerry Brown considered offering support for regulatory reforms advocated by Republicans in exchange for votes for his budget proposal, which ended with the budget passing in late June without Republican support.

McGavern criticized regulatory reform bills backed by business interests as assaults on the state’s regulatory processes that were designed to undercut environmental goals. He said he’d written California legislators earlier this year, urging them to vote the prospective laws down. Many of the proposed reforms would have enacted various new requirements that would have to be met before new rules could be approved, such as mandating agencies consider alternative proposals by industry, or engage in extensive reviews of every policy passed.

Sensible proposals?

“Very few of the proposals we’ve seen offered in Sacramento are sensible at all,” McGavern said. “Most would make the situation worse, and make it harder to clean up the air, water, address climate change, and preserve natural resources and open space in California.”

However, Rothrock said legislation requiring more analysis of the economic costs and the underlying science of environmental regulations would help avoid the problems industries such as agriculture complain are killing business. Currently, regulations are reviewed by California’s Office of Administrative Law, which critics claim does an insufficient job of vetting regulations’ costs and underlying claims.

Like McGavern, Boren said she was also skeptical of many of the reform bills that have been backed by business interests.

“(In the environmental community) there’s a distrust of the business community, and if you look at some of these bills, you can see why,” she said. “There are many bills up there in the legislature that are about gutting environmental protections.”

But Boren said the problems faced by farmers –and by extension, other businesses regulated by the state’s environmental rules- are significant. She said Sustainable Conservation is a supporter of a piece of state legislation designed to reduce conflicts between environmental regulatory agencies, Assembly Bill 838, by Democrat state assemblyman Jerry Hill.

According to Boren, the state’s leaders and environmental advocates need to ensure California’s regulations not only promote the highest environmental standards, but also make sure that those regulations are effective, compliment each other and work well with businesses.

“I think if (policymakers and environmentalists) can come to understand the inefficiencies, or the

fact that the way (regulations) are written now is not providing us the environmental quality we want, then you can get a broader stakeholder group,” she said. “It’s about trying to get regulations to work more effectively, both for businesses, and I think you could argue, if they work more effectively, you get better environmental outcomes.”

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