

MEETING SUMMARY  
**PEST MANAGEMENT ADVISORY COMMITTEE**  
**June 3, 2004**

The forty-seventh meeting of the Pest Management Advisory Committee (PMAC) was held on Thursday, June 3, 2004, at the Department of Pesticide Regulation, 1001 I Street, First Floor Training Rooms 1 and 2, Sacramento, California, 95814.

**MEMBERS/ALTERNATES PRESENT (Based on Sign-In Sheets):**

Paul E Helliker, Director - Dept. of Pesticide Regulation  
Paul Gosselin, Chief Deputy Director - Dept. of Pesticide Regulation  
Jennifer Ryder Fox for Mark Shelton - California State Polytechnic University, San Luis Obispo  
Charles Goodman - California Department of Food and Agriculture  
Karen Heisler - U. S. Environmental Protection Agency (EPA), Region 9  
Rebecca Sisco, UC Davis - Western Region IR-4 Program  
Frank Carl - California Agricultural Commissioners and Sealers Association  
Rick Roush, UC- Statewide IPM Program  
Barry Wilson, UC Davis - Dept. of Environmental Toxicology  
Robert Bugg, UC Davis - SAREP  
Rick Melnicoe, UC Davis - Director, Dept. of Environmental Toxicology  
Robert Ehn - California Plant Health Association  
Robert Curtis - California League of Food Processors  
Anne Katten - California Rural Legal Assistance Foundation  
William Thomas - Livingston & Mattesich

**ABSENT MEMBERS (Based on Sign-In Sheets):**

Cynthia Cory - California Farm Bureau Federation  
Christine Bruhn, UC Davis - Director, Center for Consumer Research  
Cliff Ohmart - Lodi Woodbridge Wine Grape Commission  
Dawit Zeleke - Nature Conservancy Program for Strategic Pest Management  
Joel Nelsen - California Citrus Mutual  
Laurie Nelson - Consumer Specialty Products Association  
Mark Cady - Community Alliance for Family Farmers  
Maxwell Norton - UC Cooperative Extension Merced County  
Pete Price - Price Consulting  
Robert Baker, Pest Control Operators of California  
Terri Olle, Californians For Pesticide Reform

**INTERESTED PARTIES PRESENT (Based on Sign-In Sheets):**

Barbara Todd , CDFA  
Betsy Petersen, CA Seed Association  
Amy Castello, ARB  
Michael Benjamin, ARB

Renee Pinel, WPHA  
John Pearson, CSI  
Artie Lawyer, TSG  
Terry Cage, CAAA  
Claudia Reid, UC  
Jim Wells, ESG  
Jessie Maxfield, SWRCB  
Ralph Riggs, AgraQuest  
Walt Shannon, SWRCB  
Brian Brett, Dow Agro Sciences

DPR Staff:  
Veda Federighi  
Chris Reardon  
Bob Elliott  
John Sanders  
Nan Gorder  
Randy Segawa  
Tobi Jones  
Ann Prichard  
Kathy Brunetti  
Steven Monk  
Tom Babbs  
Marshall Lee  
Naomi Fualau

## **AGENDA ITEMS**

### **1. INTRODUCTION OF NEW MEMBERS AND OTHERS IN ATTENDANCE AND AMENDMENT TO MEETING SUMMARY/AGENDA.**

Paul Helliker (Paul) opened the meeting with introductions.

### **2. STATE IMPLEMENTATION PLAN FOR OZONE/VOLATILE ORGANIC COMPOUND EMISSIONS**

Paul began the discussion by going over ongoing issues: (1) where is DPR going with existing commitments, and (2) looking at policy work with ARB to come up with replacement element for the San Joaquin Valley (SJV) that will show bigger existing commitment to SJV. Based on 1999 inventory, pesticide VOC reduction is 12% of total VOC reduction. From that point and for the next two years, DPR will look at practical and feasible options to reduce VOC emissions further. By 2007, determine what that specific percent is put in place by regulatory control or non-regulatory system for the long-term commitment. This is in the development phase, but during the next few months, it will formally be wrapped up and brought forward. This is tied in with new 2002 emissions inventory for SJV. What that represents is under the existing SIP, that set up a method to study 1990 level pesticide VOC emissions based upon each pesticide product emission potential and what gets reported through the pesticide use report. From that point, DPR's commitment was to track that inventory on an annual basis and look at trend to see how well we're getting towards our target reduction goal. (Paul gave a historical perspective on the tracked inventory and look at the trend towards achieving the pesticide VOC reduction goals).

#### Historical Perspective

- 1990 inventory got developed and approved in 1994-95.
- Data call-in involved 1500 products.
- 1996-97 data call-in to get percentage of VOC content each one of these products were.
- First inventory completed late 1990s.
- Late 1999-2000, errors found and corrected significantly impacted the baseline.

- 2000-04 trend line went down dramatically towards achieving that target of 12%. In part, last year, the 2001 inventory showed that we were well below in achieving 1999 12% target reduction value.
- 2002 inventory mirrored the PUR. 2002 PUR has higher pesticide use than 2001, and that was reflected in the 2002 emissions inventory, showing an increase of about 10% of the 1999 reduction level.

We are at the point now, and this is consistent with the plan, of taking a look at what uses are recurring in the non-attainment areas, what are the drivers there, and start to evaluate what options we have to put together some reduction measures that would maintain that 12% commitment. Based on the 2002 data, we're going to do some analysis on major uses on major crops, look at more information beyond that for strategies and come up with some options over the next few months. We'll have more public discussions on some options we think are more viable, and then, take steps to have some verifiable and enforceable reduction measures within the next year.

Summary:

DPR will continue with rulemaking process. There will be opportunity for input, advice, comment, participation, etc through the course of next 9 - 12 months, and that's for the 1994 SIP commitment. The 2007 time frame is for the 2004 SIP, which is being developed now, and rules have to be developed by 2007 to go even further. There's a plan required for 8-hour standard, so that you don't need to be rooted to that plan and rules about it thereafter, expeditiously to meet those reduction obligations. There is opportunity for people to participate in all of that, perhaps even have time to do research for some of the more significant reductions that need to happen. There is a short timeframe that we need to proceed with immediately to set rules in place to meet that obligation for the 1994 SIP. That will be the first priority for DPR. There are groups going on that are analyzing some of these things and making some recommendations to DPR in all of these elements. If you want to participate in those groups, they are open. There will also be opportunity for hearings and workshops and other things that DPR will be having on all of these.

**3. WAIVERS OF WASTE DISCHARGE REQUIREMENTS FOR IRRIGATED AGRICULTURE**

Paul discussed the documents sent to the PMAC about the State Water Control Board's (SWRCB) general permits that they had considered and adopted on May 20, 2004, about aquatic pesticide application. It is a sort of a microcosmic of some of the issues that are circling around in water quality pesticide use and overlapping authority of the SWRCB and in the Regional Water Quality Control Board (RWQCB) and DPR.

On 5/20, the SWRCB considered and adopted general permit revisions they had originally adopted from general permits two years ago about pesticide applications for weed control, mosquito control, and vector control. The original documents they adopted included some monitoring requirements, but this most recent one went through a number of deliberations about what sort of monitoring requirement would be associated with pesticide applications to water bodies. There was a lot of discussion at the meeting about the inventory data they had commissioned from the San Francisco Estuary Institute (SFEI) which essentially showed that there was no toxicity to be found for pesticides other than those that were copper based and

in some cases, couldn't even find the pesticide in the water. Based on that, there was no need for an ambient permit for those types of pesticide applications, even pursuant to the challenged irrigation talent data decision, which stated that, where there are pollutant discharges, that amphibian permits are required. A number of people testified to similar effects, and these permits are not really necessary. The monitoring requirements in the permits are expensive, and they're not going to generate much useful data. There's really no need to have this additional requirement imposed when the pesticide regulatory program already looks at monitoring information from the registration process, and the as the pesticide is used in the field, any additional impact can be handled and had been handled through modifications to requirements on the pesticide regulatory program.

Kathy Brunetti provided more information from the meeting: The Board agreed that they needed to adopt a permit that day because they have been clamored for. A number of agencies had concerns that without a permit, they would be subject to third-party lawsuits. Besides, there would be no permit to comply for, and it's a problem. So there was an agreement that because of the urgency to get a permit adopted, the permit was adopted. (For more details about Discharges of Aquatic Pesticides for Vector Control and Discharges of Aquatic Pesticides for Aquatic Weed Control, please go to the SWRCB's web site: <http://www.swrcb.ca.gov/aquatic/index.html>.)

Paul: There's clear authority for DPR to be responsible solely for controlling the VOC emissions in pesticides. In the water world, when it comes to pesticide use that has an impact on water quality, the SWRCB have authority to control that, as does DPR. That is where this potential conflict in duplication and additional requirements comes into play. We've been urging the SWRCB to take the approach that where these impacts could be adequately addressed by pesticide regulatory program, that they leave it at that and not spend their time and energy on it. The SWRCB decided to proceed anyway without recognizing that their monitoring data confirm what the pesticide regulatory program already shows, which is that these pesticides do not cause water quality impact and do not need to be regulated under water quality programs. That is a potential model for how the SWRCB could proceed with all of the other elements of their water quality programs, at least with pesticides.

The SWRCB have a choice of whether or not they want to pursue permits and establish a regulatory structure for agricultural discharges that would be parallel to DPR's authority. There's no difference in terms of the goals between DPR & the SWRCB...the end result is the same, to reduce impacts from pesticide use on water qualities. But, the statutory authority that are used to do so are overlapping and parallel. The waste district waiver program has evolved in the course of the past two years as well, and there will be monitoring data that starts to come in this summer from the different water quality coalitions. That monitoring data will be used by DPR and by the SWRCB to make further decisions about what else needs to be analyzed and characterized, what impacts are there that need to be identified, and what steps need to be taken to address those impacts. DPR will be discussing with the SWRCB this summer what to do with the data that comes in.

West Nile Virus: CFA, DHS, DPR & Cal/EPA met (yesterday) to talk about West Nile virus which is starting in Southern California and would probably be winding its way into other

parts of California this year, and what the mosquito control district are going to do to try to adjust this problem; DHS's plan - the issue about if there are control strategies and pesticide applications look, for larvae sites as well as per adult sites that occur in water bodies, what about this general permit? It's going to become much more controversial very quickly because the monitoring requirements are pretty extensive and they're expensive. The mosquito control districts had essentially passed on this for the past two years because the public health pesticides were not required to be monitored under the previous agreement, but they are now. That is going to create some difficulties for the mosquito control districts, most of them think this is a volunteer program, Water Keepers might have a different perspective on that.

Kathy Brunetti added that the permits specify those pesticides that are covered by the agreement. So if you are applying to apply different pesticides than those listed, you may not be able to get one of these permits. That means that if you have something brand new, you apply something with legal application or a section 18, you may not be able to get coverage under these permits, you may have to get individual intermediate permits, they're easy, cheap or swift. One of the comments that DPR made was that, "Section 18s would not be covered under this because they are not named as pesticides". The permits say that if you are going to use the following pesticides (there's a list of pesticides), you may get coverage. If your pesticide is not on that list, you got a problem. We are talking about aquatic pesticides.

The experimental use is more serious. If somebody comes up with the world's most fabulous new mosquito larvicide, but it's not on the list of acceptable pesticides, either they have to go back to the SWRCB and get an amendment into the permit, or they have to get an individual permit. And if you are just doing your first trial, and all you're planning to do is one little irrigation canal, you are either going to make sure that it is not a water of the United States, because only waters of the United States require that permit, or you are going to have to get a permit. So the experimental use may or may not be an issue.

Other water issues and updates: Surface Water Issues (Bill Thomas)

Phase II of the monitoring by UC Davis is going to go on this year, in a much more robust pace. The Swamp program, since then, is revitalized by the state board. The real greater contributor, volume wise, is going to be within the water quality coalition. They submitted their April monitoring plan in monitoring sediments, and the focus on the Ag range and is going to really start to produce a very robust database that is going to be then tied to other elements of the waiver program to be focused on many practices targeted to places to evidenced

The watering plan is a 3-phase program of monitoring. Phase I is water chemistry and toxicity testing, and sediment toxicity testing (sediment & sediment toxicity in sediment). In Phase II, if there is any toxicity, and that has been evidenced, then a couple things change in Phase II. It might involve dye testing to identify the specific contributing element that has given rise to the toxicity, and a more robust monitoring plan, maybe up that ridge, to start giving some evidence as the source. Phase III takes these two elements even one step further – that's about three years out.

PH: What we're doing is looking at that piece of information from that study and considering it in the context of our risk assessment methodology, which is not necessarily different, then what SWRCB uses. We recognize that there is a standard methodology that the office of water recommends. We would like to use probabilistic in larger risk assessment when we have enough information to support it because we think it's a more robust tool, but, in this case, we are not arguing over that. What we are arguing, or potentially arguing over is what's going to be the result of the risk assessment and what's the right endpoint there, because if the regional board stays with their number that they adopted, it may be more stringent than what we consider is necessary, and so under our statutory obligation authorities, we may choose to regulate to a much endpoint which means that when it comes to taking whatever necessary actions to meet and to solve water quality problems caused by diazinon, we will not use our tools as extensively as the SWRCB might like us to, to reach the numbers that they think is necessary. The choice they will have is if they want to go beyond what we do, they have that option because they have the authority to do that regulation. I'm not sure that they will necessarily have the ability to do so because they will have to go through the whole requirement process - meaning that they will have to issue permits for all the dischargers and that is cumbersome and labor intensive and they themselves recognize in their documentation about the TMDL program. They don't have the resources to deal with the issue permits for all the use permits in the central valley, so it's beneficial for them to allow officials to rely on our regulatory apparatus for pesticide to address the issue that are raised by pesticide use. And their regulatory apparatus for all the other things like metals and sediments and other contaminants that they have concerns about. So that's where the divergence may happen. It is just a possibility; it may not actually come to fruition that way because the compliance deadline that they built into the waiver in the TMDL program is 2008. There's time to go through another review process under the normal 3-year train and review program for the diazinon number and before that compliance actually transpires. So maybe there is an opportunity to reach before they go through their normal process of between now and then.

PH: This summer we will have more information coming in that we'll be needing to analyze and address. So this topic will continue and you have lots of opportunity for further discuss and debate. There are still lots of other issues that we will continue to discuss. For example, for these toxicity endpoints, where do they apply? At what frequency do they apply? What ...and how do these water qualities are actually adopted and implemented?

#### **4. UPDATES: DPR FEE WORKSHOPS/REGISTRATION REFORM**

Paul gave an update on the fee workshops and Registration Reform:

- Today we circulated the April 30, 2004, registration initiative.
- Had further discussions with industry folks, environmental groups, and others
- DPR will proceed with all the items listed here under the plan reforms, including the accepted EPA reviews
- We have a notification pilot project that will keep you up-to-date on where the registration packages are

- California conditions won't be requiring data be submitted using a California study; only requires that data be based upon California like conditions.
- For the other ones that were proposed on residue data, we'll be adopting a policy change that we will not require residue data be submitted. And that is mainly because EPA already does, and there is no result that comes from the residue data review in terms of the registration package.
- Proceed with a regulation that will eliminate the review of efficacy data - which will require efficacy data be developed but not submitted unless DPR requests it. There is a caveat that we have to look at the Food and Agriculture Code multiplications that pertain to antimicrobials. There's specific language in the code having to do with us reviewing EPA data review. We'll make the regulation package and incorporate that portion of the Food and Agriculture Code, but the rest of the efficacy data; we'll be proposing a regulation that will eliminate our review of that (i.e., residue data). Residue data is not statutorily required to be reviewed, whereas efficacy data. To make sure that the regulation support that, we'll have two different approaches.
- Letter of authorization is still winding its way through the legal process. We got a decision on the federal case that the code does not preempt California statutory requirements for letters of authorization, so the plaintiff in that case, the Chemical Distributors Association lost and DPR won, and our process now continues.
- On the State case, the court came out with a ruling that we considered to be somewhat vague; no restraining order or injunction against our registration process, so we will continue as we've done, and take it that both we and the plaintiff in that case had sufficient recourse for review. We're not changing the way that we do letters of authorization.
- We can provide registrants with assistance in their registration process now that it has been changed dramatically with the fee for service approach. Our process will allow them to expedite their registration decision as well as ours. We'll be able to contract with EPA to do that kind of work.
- Timeline for rulemaking: The outside target is in about a month or two, after we get a statement of reasons together, and depends on what Tobi and Barry has in terms of what their schedule is for it. You'll be able to look at that and give us your input.
- We will proceed with items under plan reforms. We'll issue a policy on the California position. We're issuing a policy on the residue data. It's just going to be a matter of days before it actually gets notified to all the interest parties and then the regulation packages that we talked about will be about a month or two.

## 5. OTHER BUSINESS AND ADJOURN

Requests for copies of the PMAC meeting summary or reports distributed at the PMAC meeting should be directed to Naomi Fualau at (916) 327-4424, via facsimile at (916) 324-1452 or e-mail at [nfualau@cdpr.ca.gov](mailto:nfualau@cdpr.ca.gov) or may be mailed to:

Naomi Fualau  
 Executive Office  
 Department of Pesticide Regulation  
 1001 I Street, P.O. Box 4015

Sacramento, California 95812-4015