



**PESTICIDE REGISTRATION  
AND EVALUATION COMMITTEE (PREC)  
Meeting Minutes – May 17, 2019**

**Committee Members/Alternates in Attendance:**

Brian Larimore – Department of Resources Recycling and Recovery (CalRecycle) –via webcast  
Jill Townzen – Department of Pesticide Regulation (DPR)  
Jodi Pontureri – State Water Resources Control Board (SWRCB)  
Kevi Mace-Hill – California Department of Food and Agriculture (CDFA)  
Lynn Baker – California Air Resources Board (CARB)  
Ouahiba Laribi – Office of Environmental Health Hazard Assessment (OEHHA)  
Patti TenBrook – U.S. Environmental Protection Agency, Region 9 –via webcast  
Rich Breuer – State Water Resources Control Board (SWRCB)  
Ruben Arroyo – California Agriculture Commissioners and Sealers Association (CACSA)

**Visitors in Attendance:**

Alex Camacho – TSG Consulting  
Anne Katten – California Rural Legal Assistance Foundation  
Dave Lawson – Western Plant Health Association (WPHA)  
Emily Saad – Exponent  
James Nakashima – Office of Environmental Health Hazard Assessment (OEHHA)  
Lynn George, Grant Consolidated Inc. –via webcast  
Premjit Halarnkar – CH Biotech  
Rebecca Baskins – Kahn, Soares & Conway  
Stephanie Hung – Office of Environmental Health Hazard Assessment (OEHHA)  
Vicki Quinn – Valent USA

**DPR Staff in Attendance:**

Ann Prichard – Pesticide Registration Branch  
Ann Hanger – Pesticide Registration Branch  
Aron Lindgren – Pesticide Registration Branch  
Brenna McNabb – Pesticide Registration Branch  
Jesse Cuevas – Pesticide Programs Division  
Jolynn P. Mahmoudi-Haeri – Pesticide Registration Branch  
Kara James – Pesticide Registration Branch  
Kean Goh – Pesticide Programs Division  
Kelly Froman – Pesticide Registration Branch  
Lan-Xin Shi – Pesticide Registration Branch  
Nathan Desjarlais – Enforcement Branch  
Vaneet Aggarwal – Pesticide Registration Branch

**1. Introductions and Committee Business – Jill Townzen, DPR**

- a. Approximately twenty-nine (29) people attended the meeting.
- b. No corrections to the minutes for the meetings held on March 15, 2019.

**2. Revised Notice of Decision and Public Report Documentation – Lan-Xin Shi and Vaneet Aggarwal, DPR**

As a result of a lawsuit, the Department of Pesticide Regulation (DPR) revised its Notice of Decision (NOD) and Public Report documentation, effective May 1, 2019. Each week, DPR posts the Notice of Proposed and Final Decisions and Public Reports for public comment to comply with the California Environmental Quality Act (CEQA). The NOD is one document comprised of four notices addressing registration decisions: Proposed to Register (including public report), Final to Register (including any responses to comments), Proposed to Deny, and Final to Deny. These notices include new products and label amendments that went through the formal evaluation process.

Enacted in 1970, CEQA requires state and local agencies to disclose and evaluate the significant environmental impacts of proposed projects. Agencies must adopt all feasible mitigation measures to reduce or eliminate any identified impacts. Under CEQA, the registration or amendment of a pesticide product constitutes a “project” because it involves the issuance of a license/certificate by a public agency (Public Resources Code section 21065). In addition, Public Resources Code section 20083(b)(3) specifically lists human health impacts among the potential environmental impacts that could come from the use of a pesticide product. A detailed environmental impact report (EIR) describes the impacts of the project. A negative declaration is issued if substantial evidence shows there will be no significant environmental impacts. After CEQA passed, the legislature determined that the preparation of a full-scale EIR was not feasible prior to registering each pesticide product.

In 1978, CEQA regulations changed to allow for an abbreviated environmental review for agencies certified by the California Natural Resources Agency. In 1979, the agency certified DPR based on the components of its regulatory program and supporting documentation. As a certified program, DPR is not subject to full EIRs and has the ability to issue its own documents in lieu of an EIR or a negative declaration. However, DPR is still subject to the substantive requirements of CEQA. U.S. EPA’s pesticide program is exempt from the National Environmental Policy Act (NEPA), the federal counterpart to CEQA.

DPR’s regulations specify the requirements for NODs and public reports. For new products and label amendments that complete the formal evaluation process, DPR posts proposed decisions for a 30-day public comment period and the Notice of Proposed Decision to Register must include a finding that the project will not have any direct or indirect adverse environmental impacts. If there are no significant adverse impacts, DPR will not propose mitigation measures. The Notice of Final Decision to Register incorporates the written evaluation requirements of the public report and addresses public comments received during the 30-day comment period. The

public report requirements are not applicable to denials because DPR did not approve these projects.

DPR has been issuing NODs for many years, so why did the documentation change? In 2014, DPR accepted label amendments for two products containing the active ingredient dinotefuran after issuing an NOD and public report. In response to this, the Pesticide Action Network of North America (PANNA) legally challenged DPR's decision with a lawsuit and alleged DPR violated CEQA by approving label amendments without sufficient environmental review. PANNA's concerns about dinotefuran stemmed from the current reevaluation of this active ingredient for pollinator issues. The finding of no significant adverse effect in DPR's NOD troubled the court because the label amendment expanded use of a product that was in reevaluation due to environmental concerns. This resulted in DPR issuing CA Notice 2018-01, which limited the expansion of uses of products in reevaluation. However, the court also found that DPR's NOD process was deficient in meeting the substitute document obligations for a certified program under CEQA. The concern was specifically with the lack of adequate justification in the Notice of Proposed Decision to Register.

CEQA's implementing regulations (California Code of Regulations section 15252) specify what must be included in a substitute document for an EIR or a negative declaration. The court found certain areas deficient in the Proposed Decision to Register notice and public report. These included the discussion of alternatives and cumulative impacts, as well as documentation showing possible effects DPR examined in reaching a conclusion that the project will not cause a significant adverse impact to human health, flora, fauna, water, or air. In order to address the court's concerns and protect the certified program status, DPR revised the Notice of Proposed Decision to Register. Each product DPR proposes to register or amend now includes a detailed public report that addresses the aforementioned areas.

The new Notice of Proposed Decision to Register addresses registration actions that go through the formal evaluation process, such as label amendments, new products, new active ingredients, master labels, California-only products, Section 18 Emergency Exemptions, Section 24(c) Special Local Need registrations, and Experimental Use Permits. Each submission listed in the Proposed Decision to Register notice has a hyperlinked tracking identification number that leads to its own public report, which includes the proposed product label. These changes only apply to the Notice of Proposed Decision to Register. However, the Final to Register notice will also link to the same public report.

There are some differences between the previous NOD and the new NOD. Both the former and revised NODs contain a description of the action, which lists the tracking identification number, firm name, product name, use, type of amendment or registration, active ingredient(s), and Chemical Abstracts Service (CAS) number. The new NOD also discusses DPR's certified program under CEQA, DPR's regulations for the proposed decision and public report, and CEQA guidelines for the public report requirements. The new NOD includes hyperlinks to product-specific public reports for each product listed proposed to register, rather than a generic public report. Adding this new product-specific information in the public report better reflects

DPR's analysis and evaluation. This significant change has increased the overall amount of documentation.

The public report for each product includes six key components.

1. Description of the project
  - a. Includes product name, EPA registration number, firm, active ingredient(s), and a list of proposed changes for the label amendment.
2. Overview of the registration program and scientific evaluation process
  - a. Contains information such as tables of data requirements by pesticide product type, lists of scientific evaluations areas, descriptions of evaluations stations, and information from the Pesticide Registration and Evaluation Committee (PREC).
3. Environmental and human health checklist
  - a. Documents the project will not have significant adverse effects to human health, flora (plants), fauna (fish and wildlife), water, and air.
  - b. DPR is required to check every box and explain how each registration decision does not impose negative impacts to each area.
4. Discussion of feasible alternatives and mitigation
  - a. Because DPR is proposing to register the product or amendment on the basis that it will not have expected adverse impacts, DPR will explain other alternatives (adopting a regulation or denying an action) are not preferred and no mitigation is necessary.
5. Existing environmental conditions and cumulative impacts.
  - a. For agricultural use products, DPR will compile Pesticide Use Report (PUR) data on the active ingredient(s) over a three-year period to track increases and decreases in usage.
  - b. The report will also explain why it is difficult to assess cumulative impacts with a statewide license.
6. Conclusion (NOD Team Summary).
  - a. Addresses why the proposed action is unlikely to pose a significant adverse effect to human health, flora, fauna, water, and air.
  - b. DPR will conduct research, investigate information, review evaluation reports for the subject product and similar products, and look over any other relevant information to justify decisions made. Researching each CEQA area may take a while because information is not always easily accessible.

Overall, there have been substantial changes to the NOD and public report documentation process. Before DPR posts a product or label amendment as Proposed to Register, staff must complete the public report. In order to address all CEQA criteria, the amount of time needed to complete public reports may increase and will vary from product to product, depending on the amount of accessible information at the time. If there are instances where there is no adequate information on file, additional evaluation may be necessary. If the evaluation station determines that more data is necessary, there may be additional delays. In addition, each public report must comply with the new accessibility requirements and DPR will post the proposed labels for each

public report. For label amendments, this includes both the proposed label and the currently registered label.

These changes became effective May 1, 2019, and the changes will affect new submissions as well as those currently in evaluation. DPR will also revise internal processes to account for the new changes. If DPR does not make these changes, its certified program status could be at risk under CEQA and/or the court may impose its own requirement to address the identified deficiencies. If you have questions regarding the NOD or public report process, contact Environmental Program Manager I, Ann Hanger at <Ann.Hanger@cdpr.ca.gov> or by telephone at 916-324-3535.

### **3. Pesticides in Surface Water – Kean Goh, DPR**

This is a celebration of the successful publication of a book by the American Chemical Society (ACS) as a result of a symposium organized in San Francisco. The book, *Pesticides in Surface Water: Monitoring, Modeling, Risk Assessment, and Management*, took a few years to complete. It is currently available electronically online and will be available hardcopy in September 2019. This long-term collaborative effort has led to a state-of-the-art approach to surface water protection. The overall goal is to prevent surface water contamination from pesticides. The first book is about pesticide mitigation, which is how to prevent and reduce adverse impacts. The second book details how the program works, what approaches are taken to protect surface water, and how different components such as regulation, prevention, monitoring, mitigation, modeling, assessment, and outreach overlap. The team that worked on the book consisted of 4 editors, 55 authors, 6 ACS editorial and production teams, and 50 peer reviewers. This included 12 institutions: California State University (CSU) Monterey Bay, CSU Long Beach, University of California (UC) Davis, UC Riverside, U.S. Geological Survey, U.S. EPA, University of Georgia, Central Coast Water Quality Preservation Inc., San Francisco Estuary Institute, TDC Environmental, Technical University of Munich, and DPR. The book has 26 chapters and 550 pages, broken down into the following sections: prevention, fate and transport, monitoring, modeling, risk assessment, and mitigation and management. The review process took about a year and half to complete.

### **4. Committee Comment**

Kevi Mace-Hill asked if there was a process to fast-track public reports for products determined to be low-risk by U.S. EPA. Ann Hanger replied that there is no fast-tracking process at this time.

Kevi Mace-Hill asked if DPR is contacting registrants for additional information for the public report. Ann Hanger replied that it depends on the situation. The submission could go back into an evaluation station that might be able to find additional information. If the necessary details were not available, then the information would have to come from the registrant. Without this, the proposal would not be able to move forward.

Rich Breuer asked if the Pesticides in Surface Water book will be available through ACS, and whether there is a charge for the book or if a free electronic version will be available online. Kean Goh replied that the electronic version is available to purchase now and that the hard copies would be available through Amazon. There are new and used versions of the book and the main authors will get five copies each.

#### **5. Public Comment**

Lynn George asked how the department intends to check all of the CEQA boxes for adjuvants when data is never provided for water, fauna, or air and is only limited to data for human health. Ann Hanger replied that the data requirements are limited for adjuvants, but DPR is relying on any available information, including the label or additional research. It is a challenge, but the department will do the best it can to put together a public report to address each area of the CEQA checklist.

Dave Lawson mentioned that for the required three years of data, the pesticide use report only shows the available data. Dave Lawson then asked if DPR would use the available information or if DPR would expedite publishing of the Pesticide Use Report. Ann Hanger replied that DPR would use currently published information.

Premjit Halarnkar asked if the new NOD requirements would affect any Federal Insecticide Fungicide Rodenticide Act section 2ee applications or change that process. Ann Hanger replied that this is for new products and label amendments only.

#### **6. Agenda Items for Next Meeting**

Ruben Arroyo asked if this committee is going to be involved in any chlorpyrifos updates. Jill Townzen replied the group would consider this topic when more information is available.

Kevi Mace-Hill mentioned that it would be great to have Rachel Kubiak back at some point to give a cannabis update. Kevi Mace-Hill also requested a future update on the change in processing time for registration and label amendments with the new NOD requirements.

The next meeting is scheduled for July 19, 2019 at 10:00 a.m. in the Sierra Hearing Room on the second floor of the CalEPA building, located at 1001 I Street, Sacramento, California.

#### **7. Adjourn**