



Department of Pesticide Regulation



Brian R. Leahy
Director

Edmund G. Brown Jr.
Governor

REGISTRATION FEE WORKSHOP Meeting Minutes –January 14, 2015

Visitors in Attendance:

Ana Christina Rodriguez, E.I. DuPont de Nemours and Company
Andi Cameron, DPR –Pesticide Registration
Anise Severns, DPR –Administrative Services Division
Ann Prichard, DPR –Pesticide Registration
Artie Lawyer, Technology Sciences Group, Inc.
Carrie Link, Marrone Bio Innovations
Chris Reardon, DPR –Executive
Chuck Andrews, DPR –Pesticide Programs Division
Danielle Place, Exacto, Inc. –via webcast
Dave Lawson, Lawson and Associates
Denise Alder, DPR –Pesticide Registration
George Farnsworth, DPR –Enforcement
Henry Buckwalter, FMC Corporation
Ian Larrea, Randlett Nelson Madden
Kristin Power, Consumer Specialty Products Association
Laura Whatley, BASF Corporation
Leslie Ford, DPR –Fiscal Services and Business Operations
Leslie Garcia, Technology Sciences Group, Inc.
Lisa Ross, DPR –Worker Health and Safety
Lu Saepanh, DPR –Fiscal Services and Business Operations
MaryAnn Warmerdam, The Clorox Company
Marylou Verder-Carlos, DPR –Pesticide Programs Division
Maya Ramsey, Valent USA Corporation
Nicole Quinonez, Randlett Nelson Madden
Rachael O'Brien, Agricultural Council of California
Rachel Kubiak Western Plant Health Association
Renee Pinel, Western Plant Health Association
Richard Spas, DPR –Pesticide Registration
Rob Adams, Adams Technology Systems –via webcast
Scott Baker, Lighthouse Product Services –via webcast
Valerie Nera, CalChamber



1. Introductions

2. Presentation –Chris Reardon, Lu Saepanh, and Ann Prichard, Department of Pesticide Regulation

The Department of Pesticide Regulation (DPR) has not raised registration fees (fees) for eleven years and has not talked about possible fee increases since 2005. The current fee structure does not fiscally support DPR's registration process. The purpose of this workshop is to provide an overview as to why increases in registration fees are necessary at this time. DPR is also soliciting comments and feedback on its proposal through interactive discussion during the meeting and also in writing. DPR has been asked by state control agencies to assess its current budget situation.

DPR's revenue sources comprise the following: (1) mill assessment provides eighty percent of DPR's revenue; (2) registration fees is the next highest at fourteen percent; (3) licensing fees at two percent; (4) civil penalties at four percent; and, (5) minimal amounts from other revenue streams. DPR's revenue source allocation has not changed over the years. Mill assessment is an assessment on the sales of registered pesticides, currently set in statute at a maximum of 21 mills or 2.1 cents on each dollar of sales into or within California. The mill assessment fund has been consistently growing at approximately four percent each year. This has been a consistent source of funding for DPR. This growth has eliminated the need for DPR to increase the mill every year to account for inflation.

Manufacturers, importers, or dealers who wish to manufacture or sell pesticide products into or within California are required to pay product registration, renewal, and label amendment application fees (14%). Individuals and entities in various pest control, agricultural adviser, and restricted pesticide applicator businesses pay licensing fees (2%). Violators of registration and labeling requirements and pesticide sales reporting are subject to civil penalties 4%.

In 2003, Food and Agriculture Code (FAC) § 12812 was enacted and authorized DPR to set fees to cover the cost of the registration program. DPR has a broad authority to adjust fees and set the fee schedule to ensure program costs are covered. DPR last changed the fees in January 2004. At that time, registration and renewal fees went from \$200 to \$750 and fees on certain types of label amendments were established. Currently, DPR charges an application fee of \$750 for applications to register new pesticide products and annual renewals, and \$100 for certain types of label amendments.

FAC §12812 subpart (a) states, registration fees shall include, but are not limited to: (1) annual fees for each product submitted for registration; (2) penalties for the late payment of registration fees; and, (3) fees for amendments to registered products. Additionally FAC §12812 subpart (c) states, registration fees “shall be set so that the total revenue collected each fiscal year is sufficient to support the expenditure levels for the registration program contained in the annual Budget Act.”

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Registration fee revenues no longer support the registration program expenditures. Starting in the Fiscal Year 2010-11, registration expenditures exceeded revenues. The deficit between revenues and expenditures has and will continue to grow in coming years. In the past, mill assessment revenues were used to cover the shortfall between registration fee revenues and expenditures. However, this is no longer a sustainable option. By statute, the registration program must collect sufficient revenue to support the expenditure levels.

Table 1. Registration Program Expenditures and Revenues

Fiscal year	2009-10	2010-11	2011-12	2012-13	2013-14
Revenues	\$10,379,000	\$10,210,000	\$10,207,000	\$10,460,000	\$10,616,000
Expenditures	\$9,936,000	\$10,446,000	\$10,533,000	\$10,674,000	\$11,220,000
Surplus/Deficit	\$443,000	-236,000	-326,000	-214,000	-604,000

Fiscal year	2014-15*	2015-16*	2016-17*	2017-18*
Revenues	\$10,370,000	\$10,370,000	\$10,370,000	\$10,370,000
Expenditures	\$13,106,000	\$15,585,000	\$15,939,000	\$14,655,000
Surplus/Deficit	-2,736,000	-5,215,000	-5,569,000	-4,285,000

*Estimated

Fiscal year 2010-11 was the first year that expenditures exceeded revenues. At that time, the Pesticide Registration Branch also had reductions in expenditures (furloughs, vacant position reductions, etc.). From 2010-11 through 2017-18, the deficit between expenditures and revenues continued to grow. Fiscal year 2013-14 marked the time when the State no longer had budget problems and the table depicts a deficit of -604,000. However, 2014-15 depicts an exponential deficit of -2.7 million which is expected to continue to grow in the coming years. The reason for this deficit growth will be explained in the subsequent sections.

Table 2. Breakdown for the Increasing Registration Program Cost

Fiscal year	2014-15	2015-16	2016-17	2017-18
2014-15 Baseline	\$12,452,000	\$12,452,000	\$12,452,000	\$12,452,000
2014-15 Employee Compensation	\$482,000	\$430,000	\$430,000	\$430,000
2014-15 CalPERS Contribution	\$172,000	\$172,000	\$172,000	\$172,000
2015-16 Employee Compensation		\$216,000	\$216,000	\$216,000
2015-16 CalPERS Contribution		\$151,000	\$151,000	\$151,000
PRDMS		\$1,958,000	\$1,961,000	\$400,000
2016-17 Employee Compensation			\$206,000	\$206,000
2016-17 CalPERS Contribution			\$145,000	\$145,000
2017-18 Employee Compensation				\$206,000
2017-18 CalPERS Contribution				\$71,000
Total	\$13,106,000	\$15,379,000	\$15,733,000	\$14,449,000

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In 2014-15, registration program costs increased by \$482,000 due to employee compensation costs. Furloughs ended and employee contracts were re-negotiated which increased costs. At the same time back in 2013, CalPERS changed the formula in funding employee retirement. Instead of using a 15-year calculation to adjust for investment losses, CalPERS changed the formula to make up losses over five years only, which accelerates the amount of contributions DPR pays to CalPERS. Both employee compensation and CalPERS contributions are the largest expenses from 2014-15 through to 2018. Another anticipated cost, is the cost to develop the Pesticide Registration Data Management System (PRDMS).

PRDMS will move DPR's pesticide registration process from the current paper based system to a paperless system. The paperless system will apply to registrants as they apply for registration or submit documents to the Pesticide Registration Branch. Under the new system, registrants would have the capability to submit documents and renew pesticide products electronically. The idea is to provide registrants with a portal to login and create an account to manage their submissions and view the status of the submissions. The paperless aspect applies not only to the Pesticide Registration Branch but also, DPR as a whole. Submissions would be routed electronically to each staff person needing to review the submission and the documents created will be maintained electronically. The proposed system will still allow for a paper based submission, however, it is anticipated that the Pesticide Registration Branch will convert the paper files into an electronic format.

The Pesticide Registration Branch started the PRDMS project in March 2013. In June 2013, the first document was created and named the Business Process Assessment and Design (BPAD). The BPAD is a high level document which describes the current process and provides a brief synopsis of what DPR would like out of the new system. Any project concerning information technology (IT) with the State of California requires numerous documents be submitted in a certain order to oversight control agencies. For the PRDMS project, the control agencies involved is the California Department of Technology (CalTech) and the Department of Finance. CalTech reviews and approves each document before further progression can occur on the project. In July 2014, the second document the PRDMS team submitted was a Feasibility Study Report (FSR). The FSR provides a business case or justification for why the project is needed and an outline of the expected costs to develop and implement a new system. CalTech recently approved the FSR. The final document the PRDMS team is working on is a system solicitation document, or Request for Proposal (RFP). This RFP must be detailed enough for vendors who develop IT systems to be able to provide a viable bid to develop the new system. It is anticipated that the RFP will go out for bid in early 2015. From there, the team will review the submitted bids and select one vendor in middle of 2015. It is anticipated that the system will take approximately two years to develop in 2015-17, and implement the system sometime in 2017. The PRDMS should provide efficiencies, provide more transparency for the registrants, and overall help the registration process.

The registration fees pay for the entire registration process, not just for the Pesticide Registration Branch. The registration process includes registration evaluators in a number of other DPR Branches including Worker Health and Safety, Environmental Monitoring, Human Health

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Assessment, Enforcement and Pest Management and Licensing. Fees are charged for applications for registration of new pesticide products (including new active ingredients), requests to amend currently registered pesticide products, and applications for renewal which currently pay for the registration program. These fees also cover a number of other business functions that fees are not charged for such as special local needs registrations, emergency exemptions for registration, research authorizations, adverse effects submissions, administrative functions of the reevaluation program, risk assessment, risk mitigation, and ombudsman. Business functions include, but are not limited to, areas such as intake, indexing, scientific studies, label coding into the database, maintaining the pesticide data library, public records, and licensing. The current paper based process requires staff to manage and update this information as needed. Hopefully, this will subside as DPR moves to an electronic submission process. However, the PRDMS project will be from an initial point in time and will not cover converting the old historical paper files into an electronic format. That will be a separate project. There will be a few years of overlap, processing both paper and electronic submissions.

A registration workload output figure was provided to show small changes in workload has occurred but was not a substantial increase or decrease. Presently, fees are set at \$750 for renewal or new registrations and \$100 for certain label amendments. Currently, label amendment revenues account for less than one percent of total registration fee revenues. Application and renewal fees account for over ninety-nine percent of total registration fee revenues. Having one fee for all amendments will eliminate confusion on when the fee is required and benefit the PRDMS project. An increase in label amendment fees may lower the number of label amendment submissions and may have an effect on revenues. Furthermore, a lower label amendment fee may increase compliance.

DPR considered if the fees are sufficiently diverse so cost is shared broadly, if the fees influence economic decision making of registrants, if the fee can be administered and collected in an efficient, effective, and uniform manner with minimal compliance and enforcement costs, and if the fees are reliable enough to generate stable revenues to support the services provided. These were taken into consideration when generating five different fee scenarios:

Table 3. Five Fee Scenarios for Consideration

	Current Fees	Scenario 1	Scenario 2	Scenario 3	Scenario 4	Scenario 5
Application Fee	\$750	\$1,150	\$1,100	\$1,100	\$1,125	\$1,150
Renewal Fee	\$750	\$1,150	\$1,100	\$1,100	\$1,125	\$1,150
Amendments that Require Data	\$100	\$100	\$0	\$0	\$0	\$0
All Amendments	\$0	\$0	\$200	\$100	\$100	\$25
New Active Ingredients	\$0	\$0	\$0	\$30,000*	\$0	\$0
Revenues Generated	\$10,370,000	\$15,845,000	\$15,721,000	\$15,701,000	\$15,743,000	\$15,845,000

***Note:** A few years ago, DPR conducted a study to determine the average cost to register a new active ingredient containing pesticide product.

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DPR projects that a five million (2015-16) and five and a half million (2016-17) dollar deficit will occur using the current fee structure. With that in mind, the goal is to collect enough revenues to cover this projected deficit. In a typical year, DPR receives 12,200 renewals, 1,400 applications for registration and collected fees for 800 label amendments requiring a fee. With application and renewal fee revenues accounting for over 99 percent of total registration fee revenues and one percent for amendments that DPR currently charges for, all scenarios include an increase in registration and renewal fees. Faced with a five million dollar deficit, renewal and application fees needed to be increased from \$750 to between \$1,100 and \$1,150. The difference between the two amounts can be achieved by varying the fee for label amendments.

DPR proposes scenario 5 where the application and renewal fees are \$1,150 and \$25 for all types of label amendments. DPR's proposal relies on stable, predictable revenues from applications and renewals. Furthermore, this scenario lowers and simplifies label amendment fee while providing a buffer for future cost increases.

Moving forward, DPR proposes to evaluate fees every three years to consider making adjustments if disparities between revenue and costs are greater than ten percent. Feedback from registrants may include: (1) Do you support DPR's fee schedule and adjustment criteria? (2) Considering that registration fee revenues must support registration program expenditures, what changes to the fee schedule should DPR consider? (3) Is there registration functions for which DPR should be charging that we are not? (4) What would be the best interval for evaluating the need for a fee adjustment?

Comments should be specific to the proposal and scenarios. Staff are available to provide responses to questions about the information covered in the presentation. DPR is accepting written comments until February 27, 2015, by e-mail to <regfees@cdpr.ca.gov>.

3. Public Comment

Renee Pinel noted that Table 2 does not list the current costs and questioned if the employee compensation numbers include the current amount plus possible increases in costs. Lu Saepanh responded that the numbers represent expected cost increases beyond current costs. For example, the 2014-15 increase in costs was due to employee contracts. Employee contracts included a \$1,000 bonus for certain employees and equity pay raise for certain supervisors. Lu further stated that in 2015-16, the Governor negotiated a three percent pay raise which will affect most of the employees in the Pesticide Registration Branch.

MaryAnn Warmerdam asked if the PRDMS project would include a seamless transition taking the development from the County Agricultural Commissioner's System (Cal/Ag) for reporting pesticide use and leveraging up. Ann Prichard responded that the systems will remain as separate databases. However, the current database provides label information into Cal/Ag and will continue to do so with PRDMS. Efficiencies made in PRDMS will provide improvements for Cal/Ag.

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Artie Lawyer inquired how the PRDMS would relate to U.S. Environmental Protection Agency's (U.S. EPA's) electronic registration submission system. Ann Prichard stated the PRDMS team conducts monthly conference calls with U.S. EPA to stay abreast of the developments to potential changes in U.S. EPA's system. It is our goal to stay as consistent with their developments as possible. The Pesticide Registration Branch is providing feedback into their SmartLabel label improvement project, are aware of their efforts in Globally Harmonized Submission and Transport Standard (GHSTS), and other IT projects we can utilize in the development of PRDMS.

Rachel Kubiak requested confirmation that the cost for the PRDMS is a one-time cost spread over a period of three to four years and then once put into place the costs are then needed to cover the day to day registration activities. Ann Prichard confirmed the increase in fees is needed to pay for the development of the system.

Mary-Ann Warmerdam asked if the increases reflect adjustments to cover increased costs for control agencies. Chris Reardon stated the scenarios do reflect adjustments from control agencies; however, the adjustments may need to change in the future to account for employee compensation.

Mary-Ann Warmerdam further inquired if any surplus from the registration fees will be added to the DPR Fund and if DPR will have the flexibility to pull it out to address future deficits. Lu Saephanh stated all revenues go into the DPR Fund and DPR currently tracks how the revenues are generated and how much is needed to cover registration program expenditures. If in the event that there is an excess of revenue collected by the registration and renewal fees, at the end of a reassessment period, reduction in fees may result.

Artie Lawyer requested that DPR provide an individual Branch breakdown to include the total number of staff being charged to the registration process. Additionally, Artie Lawyer requested that DPR provide revenue and expenditure projections beyond fiscal year 2017-18. He encouraged DPR to compare its new active ingredient (scenario 3) average cost to register products to U.S. EPA's Pesticide Registration Information Act (PRIA) statistics and numbers. Today, new active ingredients are typically biochemical and antimicrobial products and the more time consuming evaluations are for the conventional pesticides. Artie recommended DPR look at the PRIA report to look at how U.S. EPA tracks the different type of label amendments and costs associated with running their program. For the most part, the PRIA report matches the amount of staff time needed to process the different types of registration actions.

Laura Whatley commented that BASF Corporation (BASF) does not object to the fees increasing as it is inevitable; however, BASF would like to see the fee increase be tied to streamlined processes. In particular, BASF requests that DPR consider providing predictable timelines for each scientifically sound submission to be evaluated. BASF makes other business decisions based upon the projected timeframe that the product will be registered in California. Chris Reardon stated both the Executive Office and the Pesticide Registration Branch have started ongoing discussions with a small group from industry to discuss streamlining and efficiencies

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within DPR. Members of the group include Western Plant Health Association and Consumer Specialty Products Association. DPR is committed to continue these discussions. Chris also stated the PRDMS project will be a tremendous benefit in terms of process. Currently, paper submissions are routed physically from one evaluation station to another. The PRDMS' "one stop shop" project will be the most effective and efficient process with which to do business with DPR. Once the PRDMS project is functioning, additional DPR Branch functions will be looked at such as issuing licenses for applicators and businesses. MillPay is a recent IT project that allows brokers, dealers, and registrants with the ability to pay mill online. Chris agrees that predictability is important not only for the registrants but also for DPR. DPR is currently looking, and will strive to, find ways to be more efficient and effective.

Kristin Power commented that it would be helpful for registrants if the presentation slides were made available to the public and if DPR could provide revenue and expenditure projections post 2017 – post PRDMS implementation. Specifically, when information is provided electronically, there will be efficiencies with resultant decreases in fees.

Danielle Place questioned, with the price increase, if DPR will start differentiating between the fees charged for pesticides and adjuvants and if there will be any discount offers to small businesses. Ann Prichard stated differentiating between pesticides and adjuvants and discounts to small businesses are not in DPR's current proposal but is something for consideration.

Rachel Kubiak asked if the information contained in Table 2 for employee compensation is salary based only or if the chart projected additional positions for DPR. Lu Saepanh stated the Employee Compensation is strictly the projected cost for salary. The projection accounts for the raises in salary and benefits the Governor of California negotiated with the state employee unions. More specifically, the compensation includes salary, social security, retirement, and medical coverage. Ann Prichard stated the Employee Compensation is not predicting the addition of any new positions and DPR would be required to go through the State of California's Budget Change Proposal process in order to receive new positions.

Mary-Ann Warmerdam questioned when the next contract negotiation with DPR's employees is anticipated to take place. Lu Saepanh stated the California Association of Professional Scientists union currently has an automatic three percent salary increase to take place on July 1, 2015, and are currently in negotiations for a new contract. Mary-Ann Warmerdam further questioned if the contract will be a multi-year contract. Lu Saepanh stated DPR currently has no insight to negotiations.

Artie Lawyer requested DPR provide the number of submissions being evaluated and the types of registration decisions (new products versus label amendments) broken into individual evaluation stations. Artie identified that different evaluation scientists review different types of data with respect to label amendments. Restated, Artie would like to see, for each evaluation station, the numbers for new product registrations and the number of label amendment requests. This number relates to the five different fee scenarios (Table 3).

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Dave Lawson requested that DPR provide more information on the basis for the projected deficit. He stated that pesticide marketing teams utilize tools that provide a five to ten year forecast and wants to memorialize the projected revenues and expenditures. Dave Lawson further inquired if the registration program budget covers evaluation fees for other Boards, Departments, or Offices (i.e., the Department of Fish and Wildlife, Office of Environmental Health Hazards Assessment, Waterboard). Lu Saepanh stated that currently, any money going to other state agencies comes out of Mill Assessment revenue.

Kristin Power commented on DPR's timing of raising registration fees. Typically, chemical companies begin their financial planning on January of each year. To implement such an increase in the middle of the year is unanticipated and will cause most companies hardship. She also encouraged DPR to consider fee reassessment to account for a January implementation date. Kristin Power encouraged DPR to consider postponing the proposed fee increase until July 2016. Much more advance notice is needed in order to provide a thorough review of the proposal.

Artie Lawyer asked if there is a current surplus in the DPR fund. Chris Reardon stated the surplus is minimal, particularly after the initiation of the PRDMS project; however, using the Mill Assessment fund to subsidize deficits in the registration process is not a feasible or sustainable option.

Mary-Ann Warmerdam inquired what authority DPR has to move the fees through emergency regulations. Chris Reardon stated FAC §12812 (c) states "the fees established pursuant to this section shall be set so that the total revenue collected each fiscal year is sufficient to support the expenditure levels for the registration program contained in the annual Budget Act." Furthermore, FAC §12812 outlines the regulation adoption process and how DPR enacts emergency regulations.

Carrie Link requested DPR provide an overview of the items the current Mill Assessment expenditures include. It would be beneficial to show where the Mill Assessment money is spent and why these revenues cannot be reallocated to fund the PRDMS project. Additional documentation should be provided to show why the emergency is now and cannot carry the project until next year.

Rob Adams requested DPR provide a cost breakdown by each evaluation station. He provided additional comments and urged DPR to consider streamlining its efficacy review by accepting U.S. EPA's Data Evaluation Reports (DERs).

Nicole Quinonez asked if DPR anticipates another public meeting, discussion, or workshop regarding the proposed increase in registration fees. Chris Reardon stated DPR does not anticipate holding another meeting at this time. He urged the audience to take a look at the proposal, e-mail questions and comments so DPR can put resources towards addressing responses before February 27, 2015.

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Scott Baker commented on the duplication of review efforts between U.S. EPA and DPR. For example U.S. EPA completes product chemistry and acute toxicology reviews (DERs) before they register the product. He feels that DPR duplicates this review effort creating extra work to be performed by the company by also submitting the same information to California for their review and decision making. Scott Baker further questioned if DPR has given any thought to reducing the redundancy in its current evaluation process. Ann Prichard stated this topic has been discussed over the years and DPR is required by statute to have its own regulatory program. Ann Prichard further stated U.S. EPA reviews products with respect to all states across the US whereas California is a very large agricultural state with very unique situations than other states. In conclusion, DPR takes these unique situations into consideration when making a registration decision as it applies to the state of California. DPR is looking to streamline its process where it can. One such example is DPR's policy on concurrent reviews along with U.S. EPA.

4. Next Steps

DPR is accepting written comments until February 27, 2015, by e-mail to <regfees@cdpr.ca.gov>. DPR's target date for a final decision is April 1, 2015, and anticipates filing an emergency regulation in May 2015, resulting in the increase of fees effective July 1, 2015 going into the new fiscal year. The Office of Administrative Law (OAL) provides a Web page from which the regulations comments and responses to comments are placed. With emergency regulations, the amount of time to provide comments is shortened to five days with only two days to provide responses to comments. DPR's goal is to have a package ready for submission to OAL having addressed as many comments as possible in advance.