THE IMPACT OF NGO's (NON-GOVERNMENT ORGANIZATIONS) ON REGULATIONS AFFECTNG REGISTRATION OF PESTICIDES & ADJUVANTS IN CA

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CHANGES TO NOTICE OF DECISION AND PUBLIC REPORT DOCUMENTATION EFFECTIVE MAY 1, 2019

- BACKGROUND
  - CALIFORNIA ENVIRONMENTAL QUALITY ACT
    - 1970 CA Legislature enacts CEQA to ensure project permitted by public agencies consider long term effect on environment.
    - Required equivalent of EIR (Environmental Impact Report) w/any significant impact on environment
    - 1978 California legislature amends CEQA to allow abbreviated environmental review for certain agencies including DPR
    - 1979 California DPR becomes certified regulatory program and is exempt from certain CEQA regulations including requirement to prepare EIR. Allowed to support environmental review through Notice of Intent listing and public report (30 day posting)
    - 1991 CA EPA is formed and CA Dept. of Ag Pesticide Programs transferred to CA DPR.

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- **Then the NGO's make their presence known:**
  - 2014 Pesticide Action Network (PANNA) challenges DPR acceptance of label amendments for currently registered dinotefuran pesticide products
  - Lawsuit alleges DPR violates CEQA by accepting amended labels w/o sufficient environmental review
  - 2017 First District Court of Appeal finds DPR's NOD's (Notice of Decision to register) deficient and not in compliance with CEQA
  - Court claims DPR failed to include checklist or other documentation with meaningful explanation how DPR reached their decision
  - CA Attorney General orders DPR to revise NOD policy and implement checklist of effect on air, water, endangered species, and humans

Current Notices of Decisions & Public Reports

- DPR sends out weekly Notice of Proposed and Final Decisions and Public Reports.
- NOD's (Notice of Decisions) posted weekly for public comment
- First Posting Notices Initial 30 day posting period
- If no comments – Product posted for final approval
- This satisfied CEQA until the PANNA legal action was filed.
- PANNA complained that posting did not provide adequate information to determine if environment and people were protected.

Changes to the NOD and Public Report CA Notice 2018-01

- Expansion of uses of products under reevaluation will be limited
- New policy affects new products/AI or label amendments w/review
- Changes made to documentation with environmental analysis in the NOD's and Public Reports
- Revised NOD's and Public Reports will address following areas:
  - Description of proposed action
  - Statement of any significant adverse environmental effect that can reasonably be expected to occur directly or indirectly from implementing proposal
  - Statement of any reasonable mitigation measures available to minimize significant adverse environmental impact
  - Statement and discussion of reasonable alternatives which would reduce any significant environmental impact

NOD and Public Report Deficiencies

- Court found the following areas deficient in Notice of Proposed Decision to Register
  - Discussion of alternatives and cumulative impacts
  - Checklist/documentations showing possible effects DPR examined in reaching conclusion that project will not have significant impact in these areas:
    - Human Health
    - Flora (plants)
    - Fauna(fish and wildlife)
    - Water
    - Air
  - Internal processes required revision to protect certified program status
    - Including detailed public reports for each submission (new product & label amendment
    - New process must address all “checklist” areas noted

New Notice of Proposed Decision

- Discussion of CEQA requirements and DPR's regulations
- Links to public report for each listed submission (Tracking ID#)
- Examples of Types of Registration Actions:
  - Amendments
  - New products
  - New active ingredients
  - Master label
  - California-only (adjuvants)
  - Section 18
- Notice of Final Decision to Register will also link to Public Report

Six Key Components of Product Specific Public Report for Notice of Proposed Decision to Register

- FOR EACH DECISION (Amendment, New Product, Adjuvant)
  - Description of Project
  - Overview of DPR's Pesticide Registration Program and Evaluation Process
  - Environmental & Human Health Factors Examined(CEQA Checklist)
  - Discussion of Feasible Alternatives & Mitigation
  - Existing Environmental Conditions and Cumulative Impacts
  - Conclusion (Description of Action & Detailed Summary of Environmental & Human Health Factors Examined)

Product Specific Public Report Contents

Discussion of Feasible Alternatives & Mitigation

- Examples of possible alternatives
  - Register proposed product/amendment
  - Require revisions of proposed product label
  - Adopt a regulation
  - No action (deny proposed label amendment/product)
- No mitigation necessary if no adverse impacts identified

Existing Environmental Conditions and Cumulative Impacts

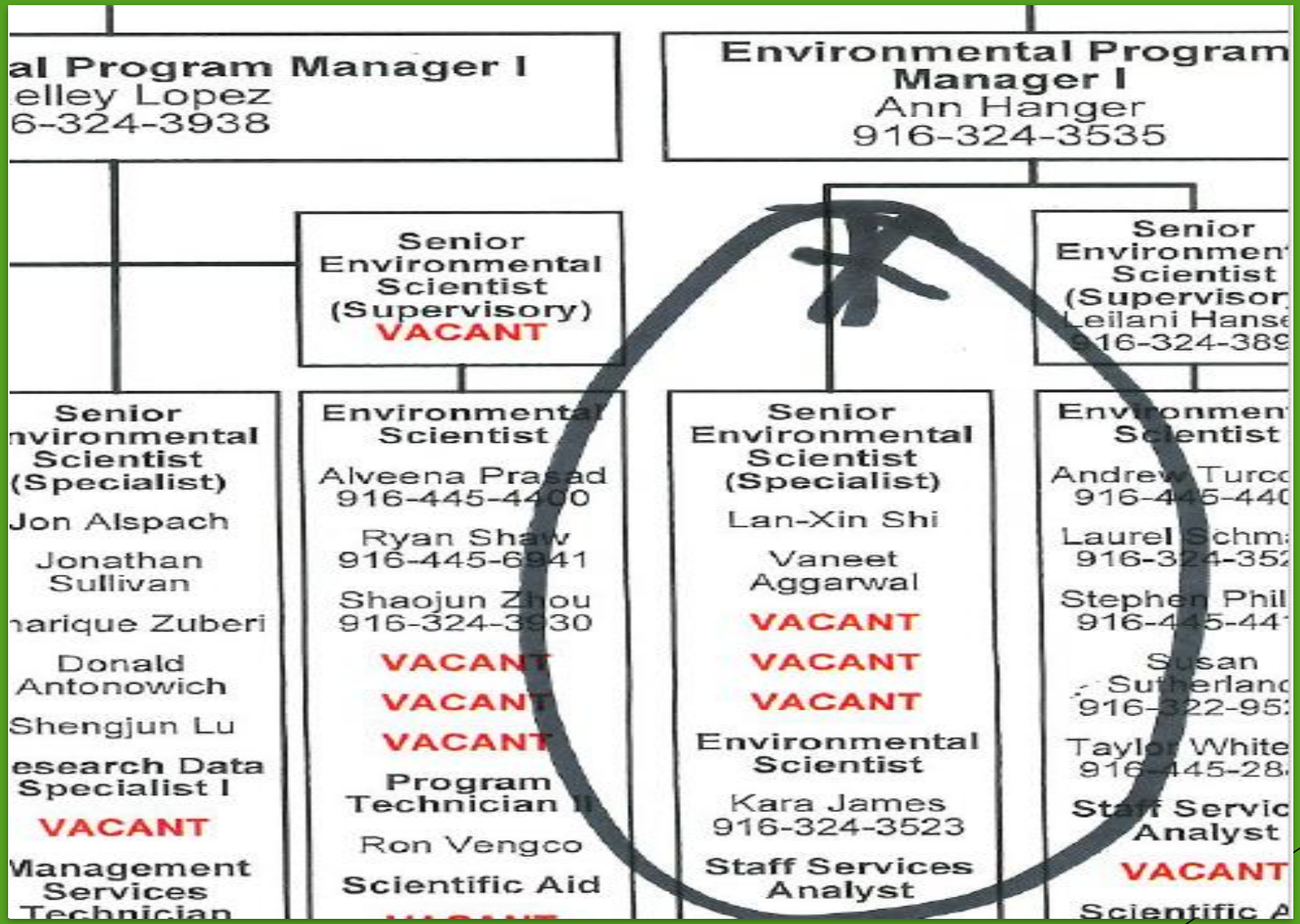
- For ag products: PUR data from last 3 years
- For non-ag products: Sales data from last 3 years
- Discussion on use and cumulative impacts

What's Next?

- Continuing Outreach
  - CA Notice 2018-26 issued 12/28/18
- Hiring 5 new staff members + Supervisor to work on Public Reports
- Revising internal Processes, where possible
- Updating PRDMS
- Input

Impact on Registrants and Ag Industry

- Effective May 1, completed public report must issue prior to posting
- Completion time will vary depending on available information/ research needed
- Additional routing may be necessary if checklist areas can't be justified
- Proposed labels will be posted
- Impacts new submissions and those currently in review
- Significant increase in review time
- Hiring of new staff with skills needed to evaluate all conditions has been difficult as individual must have skills in all areas
- With additional staff there will be additional costs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CPDA Proactive Approach to New Regulations

- CPDA Task Force meets with CA DPR Chemistry Group to explore ways to use ASTM or other standard methods to support registrations
- Task Force develops survey for CPDA members to comment on use of ASTM or equivalent standards to support registration
- Survey results sent to CA DPR Chemistry for use in their developing registration standards that comply w/CEQA
- Goal: Keep review of adjuvants that do not require field trials in Chemistry group only w/o requiring full review and the new NOD standards

QUESTIONS?