January 02, 2018

Matthew Rodriquez, Secretary
California Environmental Protection Agency
1001 I Street
Sacramento, CA 95814

Dear Mr. Matthew Rodriquez,

In accordance with the State Leadership Accountability Act (SLAA), the Department of Pesticide Regulation submits this report on the review of our internal control and monitoring systems for the biennial period ending December 31, 2017.

Should you have any questions please contact Anise Severns, Assistant Director, at (916) 650-6957, anise.severns@cdpr.ca.gov.

BACKGROUND

California has regulated pesticides for a century. Its citizens, through their Legislature, have established a comprehensive body of laws to control every aspect of pesticide sales and use, and to assure that the state’s pesticide regulators also have the tools to assess the impact of that use. The first pesticide related law was passed in this state in 1901 and, since the 1960s, a whole body of modern and increasingly science-based pesticide law and regulation has come into being.

DPR protects human health and the environment by regulating pesticide sales and use, and by fostering reduced-risk pest management. DPR’s strict oversight begins with product evaluation and registration, and continues through statewide licensing of commercial applicators, dealers, and consultants; environmental monitoring; and residue testing of fresh produce. In 2017, DPR had an annual budget of approximately $104.6 million, with staff of approximately 404, including scientists from many disciplines. Their work is augmented by approximately 250 biologists working for county agricultural commissioners (CACs) in all 58 counties on local pesticide enforcement.

The department’s mission is to protect human health and the environment by regulating pesticide sales and use, and by fostering reduced-risk pest management. Major goals of the department are to:

**Protect people and the environment:**

- Assure California’s environment is not adversely affected by pesticides and that all people are protected from unacceptable pesticide risks.

**Advance reduced-risk pest management systems:**

- Advance the research, development, and adoption of effective pest management systems that reduce risks to people and the environment.

**Enforce and achieve compliance:**

- Maintain and continuously improve strong and equitable compliance and enforcement programs to ensure people and the environment are not exposed to unacceptable pesticide risks.
Ensure environmental justice:

- Protect all people in California, regardless of race, age, culture, income, or geographic location, from adverse environmental and health effects of pesticides.

Continuously improve performance, accountability, and organizational effectiveness:

- Efficiently deliver our programs by attracting and retaining a competent workforce, employing effective business processes, and leveraging current technology.

Communication and outreach:

- Promote an understanding and awareness of DPR programs, priorities, initiatives, and accomplishments through effective external communications, outreach, and public education.

ONGOING MONITORING

As the head of Department of Pesticide Regulation, Brian R. Leahy, Director, is responsible for the overall establishment and maintenance of the internal control and monitoring systems.

Executive Monitoring Sponsor(s)
The executive monitoring sponsor responsibilities include facilitating and verifying that the Department of Pesticide Regulation internal control monitoring practices are implemented and functioning as intended. The responsibilities as the executive monitoring sponsor(s) have been given to: Teresa Marks, Chief Deputy Director.

Monitoring Activities
DPR holds weekly executive management team meetings. Meeting topics include discussion of current and potential internal control issues that need to be addressed. These meetings allow management to discuss issues they have been made aware of and what steps are needed to mitigate the issues. DPR branch chiefs meet every two weeks to share information and update each other on changes or problems that are occurring or may occur. DPR also holds quarterly manager and supervisors meetings where participants are encouraged to bring up any issues or risks that may impact operations, compliance, or reporting. In addition, there are other cohort-specific meetings that occur where participants meet to share information and experiences.

Addressing Vulnerabilities
DPR communicates so all staff receive information vital to the effectiveness and efficiency of controls by requiring management to update their teams at least monthly. DPR encourages staff to speak with their supervisor if they discover an issue that should be addressed to better assist DPR with fulfilling its mission, goals, and objectives. DPR has also started surveying attendees at its supervisors and managers meetings, to obtain feedback from all of its supervisors and managers on the effectiveness of meeting content and to solicit agenda items for discussion at upcoming meetings. Any deficiencies noted in prior meetings or reports are reviewed at the next meeting to ensure follow-up by the appropriate individual(s). DPR’s executive management team encourages the sharing of information and experiences so issues and deficiencies can be resolved quickly and at the lowest levels possible. All levels of employees within DPR are encouraged to share experiences to further assist each other in addressing issues that arise.
COMMUNICATION
DPR holds an annual strategic planning meeting where the management team comes together to review the prior year’s project plans and plan for next year’s priorities and projects. The creation of specific project plans with specific subtasks, schedules, and responsible parties helps DPR monitor activities for these high-profile and priority projects. DPR requires reports from each unit on a weekly basis. These reports inform management of the monitoring practices being conducted, improvements needed, and the overall monitoring success or weakness within each unit. This information is summarized and reported to DPR’s Director and sent out to all staff the following week. DPR employees are encouraged to read the weekly reports to gain information about changes or issues throughout the department.

ONGOING MONITORING COMPLIANCE
The Department of Pesticide Regulation has implemented and documented the ongoing monitoring processes as outlined in the monitoring requirements of California Government Code sections 13400-13407. These processes include reviews, evaluations, and improvements to the Department of Pesticide Regulation systems of controls and monitoring.

RISK ASSESSMENT PROCESS
The following personnel were involved in the Department of Pesticide Regulation risk assessment process: Executive Management, and Middle Management.

RISK IDENTIFICATION
DPR conducted the following tasks to complete its risk assessment:

- Assembled and deployed a SLAA team of DPR’s executives and the Fiscal, Audits, and Business Services Branch Chief. DPR briefed each team member on SLAA requirements and required each to review State Administrative Manual SLAA requirements, including the outline and contents of the required biennial SLAA report.
- Defined primary DPR business processes.
- Assessed initial, potential vulnerabilities and risk areas that could adversely impact the DPR’s ability to achieve its mission. The DPR SLAA team explored broad vulnerabilities, including program, financial, and administrative risks.
- Conducted facilitated work sessions with the SLAA team to further evaluate and define vulnerabilities within each DPR branch. During these sessions, meeting participants assessed the probability of each identified risk of occurring, and came to an agreement on the potential impact on DPR, stakeholders, and constituents if the risk occurred.

RISK RANKING
DPR defined each risk that could most adversely impact the department, which are most likely to occur, and which would have the greatest impact if the risk did occur. For each of these more critical risks, the team developed a corrective action plan to mitigate the risk. Identified corresponding existing controls that provide reasonable assurance that potential risks, including less critical risks, would be mitigated.
RISKS AND CONTROLS

Risk: Compliance-External-Complexity or Dynamic Nature of Laws or Regulations
The process followed in making the registration decision to approve the amended labels of two neonicotinoid pesticide products was challenged successfully in court as violating the requirements of the California Environmental Quality Act (CEQA). The First District Court of Appeal issued a ruling on September 19, 2017, in PANNA v. California Department of Pesticide Regulation (Alameda County Super.Ct. No. RG14731906, certified for publication) holding that the public process followed by the department in registering new pesticide products or approving the amendments to currently registered products was deficient.

The First District Court of Appeal issued a ruling on September 19, 2017, in PANNA v. California Department of Pesticide Regulation (Alameda County Super.Ct. No. RG14731906, certified for publication) holding that the public process followed by the department in registering new pesticide products or approving the amendments to currently registered products was deficient.

The decision will require extensive modification to the public process followed in making the 400 to 600 yearly registration decisions. These revisions will require significant time and resources in the short term to develop a more robust process that complies with the court decision and continuing resources going forward to implement.

Control A
DPR will expand the content of its weekly public notices of proposed decisions to register that will reflect and summarize the scientific analysis for each product that serves as the basis for its determination that the action will not have a significant adverse impact on human health, air and water quality, and fish and wildlife.

Risk: Compliance-External-Complexity or Dynamic Nature of Laws or Regulations
There are still unresolved pesticide use issues relating to cannabis.

First, the registration of pesticides for use and enforcement on cannabis is unresolved. Under the previous federal administration, the United States Environmental Protection Agency (US EPA) signaled a willingness to approve special local need registrations for certain pesticide uses in cannabis cultivation. Under the new administration, US EPA has decided not to approve requests for the special local need registrations. Second, under California’s current cannabis regulatory system, the department is finding it difficult to provide clear direction to the county agricultural commissioners (CACs) on how to handle pesticide use in cannabis cultivation.

Unresolved cannabis and pesticide use issues may present a substantial risk to the department’s mandate to protect the environment and people of California from the adverse impacts of pesticide use.

Control A
DPR is working to develop and update guidelines for the use of pesticides on cannabis. DPR is also developing a training program and outreach materials for CACs to promote worker safety in the handling of pesticides in cannabis cultivation.

Risk: Operations -Internal-Staff—Key Person Dependence, Workforce Planning
As of July 2017, 29% of DPR’s workforce is eligible to retire. Another 9% will be eligible for retirement in five years. Thirty-eight percent of DPR’s workforce will be eligible for retirement within the next five years.
Furthermore, the “Like Work for Like Pay” salary increase vested fully for retirement calculation purposes on June 30, 2017. Since then, a major disincentive for DPR’s middle and upper managers to not retire is now gone.

The loss of institutional knowledge and the need for extensive training of new staff may erode DPR’s ability to carry out its mission.

**Control A**
DPR is implementing its Workforce Plan to mitigate this risk.

**Risk: Operations - External - Staff—Recruitment, Retention, Staffing Levels**
DPR has difficulty recruiting and retaining employees for the Research Scientist and Toxicologist classifications and some programmer positions.

External factors like pay scales and difficulties with the civil service exam process lead to recruitment and retention problems.

The inability to fill critical positions puts DPR’s ability to deliver mandated programs at risk.

**Control A**
DPR will continue its aggressive recruiting campaign of attending college career fairs, using social media sites to advertise and recruit, and using the scientific aid classification to reach promising scientists.

**Risk: Operations - External - Political, Reputation, Media**
Effectively communicating DPR’s risk assessments and scientific evaluations that relate to policy decisions for pest management continues to be challenging.

Too often, DPR struggles to communicate and explain the impacts of its risk assessment findings to the public because social media outlets generate polarized views on the scientific findings and policy decisions, without demonstrating the importance of pest management in people’s daily lives. News articles often generate a fear-based perspective on pesticides that DPR has to address with limited resources.

DPR risk managers are too often put under pressure to develop risk management practices for scenarios which are not adequately supported by sound science.

**Control A**
DPR will continue to be as transparent as possible in its risk assessment process and find ways to better communicate scientific processes to the public. DPR continues to make the documents relied upon in its risk assessment process available online.

**Risk: Operations - Internal - Technology—Support, Tools, Design, or Maintenance**
Statewide information technology (IT) AB 2408 mandates create workload-intensive and complex changes to DPR’s IT infrastructure in CalEPA’s shared infrastructure environment

The risk is a result of AB 2408 IT consolidation mandates.

Future consolidations and moving out of a shared infrastructure environment have the ability to adversely affect DPR’s internal critical systems and public-facing applications that stakeholders, like the county agricultural commissioners, rely on to do their jobs.
CONTROL A
DPR is looking to develop a Request for Offer (RFO) to bring in expertise to aid with the move, in a phased approach, to the secure Government Cloud.

RISK: OPERATIONS-INTERNAL-TECHNOLOGY—COMPATIBILITY
The current pesticide use reporting (PUR) database is highly integrated and feeds into many of DPR’s applications and systems. Data from PUR is the backbone of DPR’s regulatory program.

The current database is nearing its end-of-life and needs to be rewritten and updated to current technological standards.

A database rewrite will be highly complex and has the potential to bring other critical systems and departmental operations to a halt.

CONTROL A
DPR has contracted for outside help to aid with the business process assessment and analysis to help with scoping the project and requirements.

CONCLUSION
The Department of Pesticide Regulation strives to reduce the risks inherent in our work and accepts the responsibility to continuously improve by addressing newly recognized risks and revising controls to prevent those risks from happening. I certify our internal control and monitoring systems are adequate to identify and address current and potential risks facing the organization.

Brian R. Leahy, Director

CC: California Legislature [Senate (2), Assembly (1)]
California State Auditor
California State Library
California State Controller
Director of California Department of Finance
Secretary of California Government Operations Agency