



**California Department of
Pesticide Regulation**

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Information Technology
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Medical Toxicology
916-445-4233

Product Compliance
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**Pest Management
and Licensing**
916-445-3914

Licensing/Certification
916-445-4038

Personnel
916-322-4553

Pesticide Registration
916-445-4400

Worker Health and Safety
916-445-4222

WHAT YOU NEED TO KNOW
about

CALIFORNIA DEPARTMENT OF PESTICIDE REGULATION

Product Compliance Program: Gaining Marketplace Equity and Consumer Protection

The longest-running element of California's pesticide regulatory program is product compliance. A century ago, the focus was adulterated or contaminated products. Modern manufacturing has made these formulation problems a relic of the past. Today, the focus of the Department of Pesticide Regulation's (DPR) product compliance program is consumer protection: making sure products are registered for sale and use in California, that they are labeled correctly, and that required fees on their sale have been paid.

Before a product can be registered in California, it must be evaluated to ensure it can be used safely under California conditions – whether in an agriculture field or an urban setting. Before registration, DPR scientific and technical staff review data on the product to ensure that it is properly labeled and will not cause health or

environmental problems. Unregistered products – often sold over the Internet or by mail order – have not undergone this kind of scrutiny and may pose unrecognized hazards to health or the environment.

DPR's Product Compliance Branch manages DPR's product compliance program. Among other activities, the Branch conducts audits of pesticide sellers throughout the U.S. to ensure that they are paying sufficient assessments on their sales. Mill fees must be paid on all pesticide sales, whether agricultural or non-agricultural products. This includes not only insecticides and herbicides, but also many products not generally thought of as pesticides, including sanitizers, disinfectants, mildew removers, pool chemicals, and insect repellents.

THE MILL ASSESSMENT IS...

... a fee assessed on all pesticide sales in California. It is 21 mills, or 2.1 cents per dollar of sales. (A "mill" is one-tenth of a cent.) It is collected quarterly in arrears, and is assessed at the point of first sale in California. Mill fee revenues provide about two-thirds of the funding for California's pesticide regulatory program. The remainder comes from registration and licensing fees, and other special funds.

Exempt from the mill assessment are products registered by government agencies and products registered for reformulation (sold without end-user instructions, typically for repackaging by another registrant who pays the mill fee on sales of the end-use product).

Since the assessment is a percentage of dollar sales of pesticides, mill assessment revenue varies with reported pesticide sales each year. In 2007-08, the value of each mill was \$2.3 million. (The mill value is how much is collected for each mill, that is, how much revenue is generated per each \$0.001 levied on pesticides sales.)

Ensuring that all pesticide sellers pay the required mill fee brings equity to the marketplace. When products are not registered, it is highly likely the mill assessment is not being paid. This creates inequities in the marketplace.

Registrants are audited

The law requires those who are subject to the mill assessment to maintain records and be subject to audit by DPR. DPR auditors review product sales into California to determine proper registration, to verify sales, and to document mill assessments were paid as required. If sales are found of unregistered products, or if mill assessments were unpaid, sellers must pay any monies owed and, in addition, are subject to civil penalties. Penalties can be levied up to \$5,000 for each sale of an unregistered or misbranded pesticide.

Audit targets are selected based on several criteria, including sales volume, patterns of sales or reported use, past violations, and consumer and industry complaints. In 2003, there were approximately 1,300 pesticide registrants, 450 dealers, and 100 brokers selling more than 11,000 registered pesticide products in California. State law requires that companies selling pesticide products in the state file quarterly reports on their total dollar of sales and pay the appropriate mill assessment.

Marketplace surveillance

To ensure that products in the channels of trade are in compliance with state and federal pesticide laws, DPR Enforcement Branch field staff inspect products offered for sale, reviewing labels to ensure they are registered.

They also check that product labels are the same as those approved by DPR's Registration Branch – that there are no changes to claims or uses, or to precautionary statements that mitigate environmental and health hazards.

Inspections are conducted at retail and wholesale nurseries; hardware, home and garden centers; landscape material suppliers; agricultural chemical dealers; feed, farm and pet

stores; medical, dental, and veterinary suppliers; industrial and institutional vendors; restaurant and hospital suppliers; grocery and drug stores; pool and spa centers; marine supply dealers; or any other site where pesticides are sold. About 20 percent of these inspections reveal violations.

Product Compliance Branch takes the lead

When violations of sales, labeling, or registration are found, the Product Compliance Branch takes the lead in directing the investigation, collecting evidence, and documenting findings that substantiate the violation. The Branch also coordinates with DPR's Legal Office to develop and propose appropriate enforcement actions, including settlement agreements.

The Product Compliance Branch is also responsible for disbursing a percentage (as determined by the Legislature in the annual budget) of mill assessment revenue to the County Agricultural Commissioners to help support local pesticide enforcement activities. Under the state-local regulatory partnership, Agricultural Commissioners in every county carry out local enforcement of pesticide laws and regulations, with DPR providing oversight.

SELLER COOPERATION IS KEY

With limited resources, DPR relies on the cooperation of pesticide sellers to report sales and pay required mill assessments. Furthermore, many investigations are pursued based on consumer and industry complaints and tips about illegal pesticide activities. Of particular concern to DPR are offers to sell, or sales and deliveries of unregistered or misbranded pesticide products. To report problems, call DPR at 916-445-4159, or send an email to: millassessment@cdpr.ca.gov.

Include as much information as possible, including the product name, U.S. EPA registration number (if available), the business selling the product (including address and phone number, if known), date and location of sale, and any other pertinent details. You can report a problem without giving your name, but leaving your name and contact information helps in the investigation if we need more information. You can request that we keep your identity confidential.

If illegal sales are found of unregistered products, or if mill assessments were unpaid, sellers must pay any monies owed and, in addition, are subject to civil penalties of up to \$5,000 for each sale of an unregistered or misbranded pesticide.



Single copies of this handout are available from DPR by calling 916-445-3974, or can be downloaded from DPR's Web site, www.cdpr.ca.gov, "Consumer Fact Sheets."