

SECOND REVISED FINDING OF EMERGENCY
DEPARTMENT OF PESTICIDE REGULATION

Title 3. California Code of Regulations
Amend Sections 6170, 6170.5 and 6216 Pesticide
Product Registration Fees

The Department of Pesticide Regulation (DPR) finds that pursuant to section 12812(e) of the Food and Agricultural Code (FAC), an emergency exists and that the adoption of these regulations are necessary for the immediate preservation of the public peace, health, safety, and general welfare, and that these regulations shall remain in effect until amended by the Director.

INFORMATIVE DIGEST

DPR protects human health and the environment by regulating pesticide sales and use and by fostering reduced-risk pest management. DPR's strict oversight includes: product evaluation and registration; statewide licensing of commercial and private applicators, dealers, and advisers; environmental and exposure monitoring; and residue testing of fresh produce. This regulatory scheme is set forth primarily in FAC Divisions 6 and 7.

All pesticide products must be registered with DPR before they can be sold for use in the State of California. Before a product is registered, DPR scientists conduct an evaluation of the product label and applicable scientific data. Each pesticide product's certificate of registration expires on December 31 of each year and must be renewed by January 31 to avoid a late penalty. DPR also evaluates proposed label and formulation amendments to registered pesticide products. Currently, only applications for registration, renewal, and amendments, including notifications of minor changes to currently registered products, require a fee.

DPR is supported by various funding sources, including the DPR Fund, Environmental License Plate Fund, Cannabis Tax Fund, Federal Trust Fund, and reimbursements. The DPR Fund revenue consists of three primary revenue sources: annual certificates of product registration, pesticide-related business licenses, and mill assessments on the first sale of pesticide products into the State. Various FAC sections allow DPR to set the fees for pesticide registration and pesticide-related business licenses through regulation changes.

Legislation enacted in 1970 authorized DPR (which was, at that time, a division within the Department of Food and Agriculture) to charge a \$40 application fee for each pesticide product submitted to DPR for registration and/or renewal. In 1987, Chapter 503, Statutes of 1986 increased the registration and renewal application fee for each pesticide product to \$200. In 2003, DPR was given broad authority (Chapter 741, Statutes of 2003) to adjust fees through emergency regulations and set the fee schedule to ensure that total revenue collected each fiscal year is sufficient to support the expenditure levels for the registration program contained in the annual Budget Act. Subsequently, in 2004, DPR set the application fee for each pesticide product submitted for registration and for annual renewal at \$750. DPR also set an application fee for amendments to the labeling of registered pesticide products at \$100 when the amendment must be supported by scientific data. DPR also established a 20 percent late-payment penalty on the renewal fee if a registrant does not apply for renewal within one calendar month after the pesticide

product’s certificate expires. In October 2015, DPR revised the application fee for each pesticide product submitted for registration and for annual renewal to \$1,150. DPR also revised the application fee to \$25 for all amendments to registered pesticide products, regardless of whether scientific data was required.

Since fiscal year 2019-20, registration program revenue collected each fiscal year by DPR has not been sufficient to support the expenditure levels for the registration program contained in the annual Budget Act. Since this deficit is expected to grow in the coming years, DPR is proposing to amend section 6216 to increase registration renewal fees for each pesticide product from \$1,150 to \$1,525. The increase in renewal fees will ensure that the total collected revenue for the upcoming fiscal years is sufficient to support projected expenditure levels for DPR’s pesticide registration program (PRP).

SPECIFIC FACTS SHOWING NEED FOR IMMEDIATE ACTION

FAC section 12812(c) requires the total registration fee revenue collected each fiscal year to be sufficient to support the expenditure levels for the registration program contained in the annual Budget Act. In other words, the PRP must be self-supporting and supported by the fee payers that receive the direct benefits from DPR’s PRP. However, registration fee revenues have not supported DPR’s PRP expenditures since 2019-20. As Table 1 illustrates, the deficit between registration fee revenue and registration expenditures started out minor, averaging only two percent of expenditures and small enough that action was not necessary because a minor uptick in revenue would have erased the deficit. In fiscal year 2019-20, the deficit began to grow and is projected to increase in the coming years primarily due to the development and implementation of the California Pesticide Electronic Submission Tracking (CalPEST) project.

Table 1: Pesticide Registration Program Expenditures and Revenues[†]

Fiscal Year	2015-16	2016-17	2017-18	2018-19	2019-20	2020-21*	2021-22*	2022-23*	2023-24*	2024-25*	2025-26*
Expenditures	12,872	14,036	16,683	15,651	16,944	16,836	22,896	22,723	22,221	20,666	18,843
Revenues	16,067	16,405	16,034	15,837	15,885	15,842	15,842	15,842	15,842	15,842	15,842
Surplus/Deficit	3,195	2,369	(649)	186	(1,059)	(994)	(7,054)	(6,881)	(6,349)	(4,824)	(3,001)

[†] In thousands

*Projections

While the registration, renewal, and amendment application fees have remained the same for the last five years (\$1,150 for registration and renewal, and \$25 for all amendments), baseline budget adjustments have increased significantly (Table 2). Baseline budget increases are mandatory permanent increases that increase costs in the current fiscal year and in future years. For example, since 2019-20, baseline budget adjustments for employee compensation costs increased the registration budget by a total \$4.382 million as of 2021-22, and these mandatory cost drivers are expected to continue. Budget Change Proposals and Legislative augmentations for federal pollinator mandates, posting of registration decisions, and other areas added \$1.6 million to the budget during that same period.

In addition, as a part of the 2021-22 budget, the Legislature approved \$5.0 million in funding for the CalPEST project, a fully-integrated information management system for pesticide product and device registration. CalPEST will take the place of the current cumbersome paper-based registration process and allow for product registrations and renewals to be submitted and accepted electronically. Future funding for CalPEST is anticipated to be \$4.574 million in 2022-23, \$4.026 million in 2023-24, \$2.401 million in 2024-25, and \$1.157 million in 2025-26 and ongoing.

Table 2: New Costs Associated with the Pesticide Registration Program #

	2015-16	2016-17	2017-18	2018-19	2019-20	2020-21	2021-22*	2022-23*
Budget Adjustments								
Employee Compensation	1,010	1,552	2,014	2,890	3,832	##2,955	4,382	4,932
Pro Rata**	11	(57)	88	186	105	153	153	153
General Fund Loan				179	115	210	210	463
BCP/Leg Augmentation***		282	282	1,436	1,564	1,621	1,621	1,621
Total New Costs without CalPEST	1,021	1,777	2,384	4,691	5,616	4,939	6,366	7,169
CalPEST							5,000	4,574
Total New Costs with CalPEST	1,021	1,777	2,384	4,691	5,616	4,939	11,366	11,743

* Budget Projections

**Statewide General Administrative Costs

***Budget Change Proposals and Legislative Augmentations

In thousands

Expenditure decrease due to employee compensation reduction during COVID

Based on registration and renewal data from the last six years, DPR receives an average of 12,616 applications to register or renew a pesticide product each year. At the current fee level, DPR collects approximately \$15.8 million in registration fee revenue. As indicated in Table 1, the projected deficit in 2021-22 is \$7.054 million. Without immediate action, the PRP will not be the self-supported program required by FAC section 12812(c).

On March 17, 2021, DPR held a stakeholder webinar to discuss the deficit in the PRP and to obtain input from stakeholders on the best approach to close the widening deficit. The webinar was attended by 110 stakeholders. DPR presented possible scenarios to close the deficit and held a question and answer session for attendees. During an informal comment period, DPR received 17 comments including letters from registrant associations, individual registrants, and user organizations. These comments factored into DPR selecting the second scenario presented at the webinar, which would hold application and amendment fees constant, and raise renewal fees to \$1,525.

Effective October 1, 2021, DPR proposes to amend section 6216 to reflect the change in the renewal application fee from \$1,150 to \$1,525, and establish that the increased fee will apply to all certificates of registration (licenses) expiring on December 31, 2021, or after. The application fee specified in section 6148 and the amendment fee specified in section 6148.5 will remain the same.

Table 3: Pesticide Registration Program Revenue Sources

	Current Fee Structure	Proposed Fee Structure	Increase over Current Fee Structure
Fiscal Year	2020-21*	2021-22*	
Label Amendments	\$50,000	\$50,000	\$0
Applications	\$1,320,000	\$1,320,000	\$0
Renewals	\$14,438,000	\$19,146,000	\$4,708,000
Totals	\$15,808,000	\$20,516,000	\$4,708,000

*Projection

The proposed increase in renewal fees, as shown in Table 3, are projected to generate \$4.7 million more revenue per year than the current fees. The proposed fees are anticipated to cover increased expenses during 2021-22 through 2025-26. The proposed fees also take into account higher revenue collections during 2015-16 and 2016-17. DPR notes that the current PRP expenditure projections focus only on the two largest drivers—initial development costs for CalPEST and the General Fund loan pay-off. These two cost drivers are anticipated to decrease by 2025-26, at which point DPR will reevaluate its registration fee structure.

Additionally, DPR proposes to amend the "Application for Pesticide Registration DPR-REG-030 (Rev. 10/15)," incorporated by reference in section 6170, to include a new revision date of 10/21 and to reflect the new renewal fee, as well as several nonsubstantive changes. These nonsubstantive changes do not materially alter any requirement, right, responsibility, condition, prescription, or other regulatory element of any CCR provision. All changes to the form are described in greater detail below:

Page 1:

- In Box 9, add “or CA” to U.S. EPA Registration Number to identify where the California Registration Number is entered. Certain pesticide products are not required to be federally registered, but are required to be registered in California and are assigned a California (CA) Registration Number by DPR (California-only registration). DPR currently uses this form for California-only registrations, and this addition helps clarify where to input information for California-only pesticide products.
- Delete space between “Fed” and “Ex” to read as “FedEx,” which is the correct spelling.

Page 2:

- Add “or CA” to U.S. EPA Registration Number to identify where the California Registration Number is entered. Certain pesticide products are not required to be federally registered, but are required to be registered in California and are assigned a CA Registration Number by DPR. DPR currently uses this form for California-only registrations, and this addition helps clarify where to input information for California-only pesticide products.

Page 3:

- Add to Instruction 1: Clarify that “For products that do not require federal registration, this must

match what is currently on file with DPR if the firm has California registered products.” Certain products are not required to be federally registered, but are required to be registered in California. Firms who only have California-only products would not have a firm name on file with U.S. EPA as they would not have any federally registered products. DPR currently uses this form for California-only registrations, and this addition helps clarify the instructions for those firms.

- Add to Instruction 9: Add “or CA” and “If the product does not require federal registration but requires registration with California, DPR will assign the product a CA registration number.” This is for consistency with the proposed change to Box 9 on page 1, and to clarify that DPR will assign a CA Registration Number for products that do not require federal registration, but require registration with California.

Page 4:

- Change renewal fee to \$1,525 for consistency with proposed change to section 6216.
- Add informational language: “A Guide for Pesticide Registrants is also available on DPR’s website. This Guide includes information regarding the overall process of registering pesticides and information regarding how to maintain registration in California. Checklists for preparing your application package for New Products, Alternate (or Additional) Brand names, Subregistrations, and Label or Formulation Amendments are available on DPR’s website.”

Page 5:

- In Box 6, remove outer parentheses. Should read “(CAS) or ATCC No.”
- In Box 8, add “or CA” to EPA Registration Number.
- In Box 12, add “or ATCC” for clarity and for consistency with Box 6 on this page.

Page 6:

- Add to instruction 11: “or CA” to U.S. EPA Registration Number to identify where the California Registration Number is entered. Certain products are not required to be federally registered, but are required to be registered in California. For a California-only registration, a registrant will not have a U.S. EPA Registration Number and thus, this clarifies that the supplier will need to reference the registrant’s CA Registration Number.
- In Box 6, remove outer parentheses for consistency with proposed change in Box 6 on page 5.
- In Box 8, add “or CA” to EPA Registration Number.
- In Box 12, add “or ATCC” for clarity and for consistency with Box 12 on page 5.

Lastly, DPR proposes to amend section 6170.5 by adding “or CA” to subsections (e) and (u), and adding “or ATCC number” to subsections (t) and (w). These changes are for clarity, and for consistency with the proposed changes to the “Application for Pesticide Registration DPR-REG-030 (Rev. 10/15),” incorporated by reference in section 6170. As previously mentioned, certain pesticide products are not required to be federally registered, but are required to be registered in California and are assigned a California Registration Number by DPR. For a California-only registration, registrants will not have a U.S. EPA Registration Number and this clarifies that they will need to provide a CA Registration Number. Additionally, DPR already requires the American Type Culture Collection (ATCC) number on the application form as specified on the form instructions on page 6. This change has no regulatory effect.

If regulations to increase registration renewal fees are not adopted, DPR will not be able to realize approximately \$4.7 million in revenue to support the PRP appropriation contained in the 2021-22 Budget Act. Regulations must be adopted to comply with FAC section 12812(e). Therefore, an increase in renewal fees are necessary to keep pace with rising PRP expenditures.

Benefit to the environment, worker safety and the health of California residents: The proposed amendments would allow DPR to continue to effectively evaluate, as required by FAC section 12824, applications for registration of new pesticide products and amendments to currently registered products and to continuously evaluate registered pesticides to ensure that use of the products will not result in significant adverse impacts on human health or the environment.

During the process of developing these emergency regulations, DPR conducted a search of any similar regulations and concluded that these proposed regulations are neither inconsistent nor incompatible with existing state regulations. DPR is the only state agency that has the authority to regulate pesticides. No other state agency has the authority to establish pesticide product registration fees.

AUTHORITY

This regulatory action is taken pursuant to the authority vested by FAC sections 12781 and 12812.

REFERENCE

This regulatory action implements, interprets, or makes specific FAC sections 12811, 12812, and 12815.

MANDATE ON LOCAL AGENCIES OR SCHOOL DISTRICTS

DPR has determined that the proposed regulatory action does not impose a mandate on school districts, nor does it require reimbursement by the State pursuant to Part 7 (commencing with section 175000) of Division 4 of the Government Code because the regulatory action does not constitute a new program of higher level of service of an existing program within the meaning of section 6 of Article XIIB of the California Constitution. DPR has also determined that no nondiscretionary costs or savings to local agencies or school districts are expected to result from the proposed regulatory action.

COSTS OR SAVINGS TO STATE AGENCIES

DPR has determined that no savings or increased costs to any state agency will result from this regulatory action.

EFFECT ON FEDERAL FUNDING TO THE STATE

DPR has determined that no effect on federal funding to the State will result from this regulatory action.