

Section 7.5

Registration and Permit Refusals, Revocations, Suspensions, and “Denials”

**Question posed
at the
Roundtable**

This document provides guidance on the following question posed at the Hearing Officer Roundtable discussions:

- Does due process require that a county first register a pest control operator or business, then suspend registration or simply deny registration?

**The relevant
question**

Due process requirements must be met regardless of when the refusal or denial occurs. The more relevant question is: In what circumstances does a County Agricultural Commissioner’s (CAC) refusal to register or grant a permit trigger the due process requirements of notice and hearing?

**“Deny” is the
same as
“refuse”**

Merriam-Webster’s Collegiate® Dictionary, 10th Edition, defines “deny” as, “to refuse to grant.” To “deny” registration is the same as to “refuse” registration.

FAC §11512.5

Food and Agricultural Code (FAC) section 11512.5 allows the CAC to refuse, suspend or revoke a county registration or permit pursuant to section 11735, 11924, 12035, or 14008; and it also requires the CAC to provide due process when refusing, suspending, or revoking a county registration or permit pursuant to FAC sections 11735, 11924, 12035 and 14008.

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Due process required

If	Then,
The applicant for the registration or permit meets the requirements for registration or a permit, but the CAC decides to refuse, revoke, or suspend the registration or permit...	The CAC must: 1) provide due process in the form of notice and an opportunity to be heard, and 2) make findings to support the decision, to refuse, suspend, or revoke the registration or permit consistent with the requirements of FAC sections 11735, 11924, 12035, or 14008.

In other words, the CAC must provide a “notice and an opportunity to be heard” or “due process” when refusing, suspending, or revoking a county registration or permit -- unless the applicant does not meet an objectively determined minimum requirement as described below.

Exception

If the CAC can objectively determine from the person’s application or other public record that the person does not meet a requirement necessary to qualify for the registration or permit (e.g., failed to submit proof of passing a required examination, possessing a valid pilot’s license, or failed to pay an outstanding civil penalty) or if the person simply does not have "a complete" application, the registration or application for permit may be “denied” or refused without the necessity of a hearing. However, the applicant should be given notice of the application defect and provided with the opportunity to cure it.

Applicable sections

- FAC section 11735 - Registration of a pest control operator.
- FAC section 11924 - Registration of a pest control aircraft.
- FAC section 12035 - Registration of a pest control adviser.
- FAC section 14008 - Permit applications.

References

FAC sections 11512, 11512.5, 11735, 11737, 11910, 11924, 12023, 12035, 14008, and 14009.