

INITIAL STATEMENT OF REASONS AND PUBLIC REPORT
DEPARTMENT OF PESTICIDE REGULATION

Title 3. California Code of Regulations
Amend Sections 6512 and 6513
Pertaining to Continuing Education Records

This is the Initial Statement of Reasons required by Government Code section 11346.2 and the public report specified in section 6110 of Title 3, California Code of Regulations (3 CCR). Section 6110 meets the requirement of Title 14 CCR section 15252 and Public Resources Code section 21080.5 pertaining to state regulatory programs certified under the California Environmental Quality Act.

SUMMARY OF PROPOSED ACTION/PESTICIDE REGULATORY PROGRAM
ACTIVITIES AFFECTED

The Department of Pesticide Regulation (DPR) proposes to amend 3 CCR sections 6512 and 6513. The pesticide regulatory program activities that will be affected by the proposal pertain to the submittal of continuing education (CE) records and course approval. In summary, the proposed regulation would require instructors or sponsoring organizations (providers) of CE courses to submit the records to DPR electronically, within 14 days of course completion by the licensee or certificate holder (licensee); require providers and licensees to maintain the date of course completion in their records; and include criteria for denying approval of a CE course submitted by a provider.

SPECIFIC PURPOSE AND FACTUAL BASIS

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 and private applicators, pest control businesses, and consultants; environmental monitoring; and residue testing of fresh produce. This structure is set forth in statute primarily in Divisions 6 and 7 of the Food and Agricultural Code (FAC).

DPR is committed to increasing efficiency and streamlining processes to better serve the public. Significant increases in efficiency rest on improving several of the online services that are currently available to the public, as well as introducing others. For example, DPR's basis for proposing CE reporting by providers is to establish a process to accept online renewals for licensees. Some of our other plans include developing Internet options so that the public can apply for new licenses, schedule examinations, and possibly take examinations online. This is particularly important for the online renewal which includes verifying that our pesticide applicators have taken sufficient CE classes. CE is an important validation of qualifications, and the one alternative that we can offer to our licensees as a substitute to taking a competency examination every two years.

DPR's Licensing and Certification Program administers examinations for two year certificates or licenses to all applicants who meet DPR requirements. Pest control aircraft pilots, qualified pesticide applicators, and agricultural pest control advisers are all required to obtain CE hours in order to renew their licenses and certificates. The purpose of CE is to ensure that licensees keep their knowledge current in the area of pest control laws and regulations; provide proper, safe, and efficient pesticide use; protect public health, environment, and property; and encourage safe working conditions for agricultural and pest control workers. Licenses and certificates cannot be renewed unless the minimum CE hours relating to laws, regulations, pesticides, and pest management are completed within each two-year period. Failure to complete the required CE hours results in loss of the license or certificate, making re-examination necessary for reinstatement. Since CE recertification is done in lieu of re-examination, accurate CE records are vital in ensuring that pest management professionals are competent and safety conscious.

Providers are businesses or government entities that perform DPR-approved CE training for licensees so that they can meet their minimum CE hours in order to renew their licenses or certificates without re-examination.

Currently, 3 CCR section 6512 outlines the process for a provider to apply for DPR approval of a CE course. Proposed subsection (g) would specify that the DPR Director may withhold course approval if courses are materially or substantially misrepresented in literature or advertisement, or if records are not kept or submitted as specified in 3 CCR section 6513. The proposed amendment is meant to deter fraudulent advertising of specific credit hours as being approved by DPR when they are not. This proposed amendment would not penalize licensees for taking a course that was falsely advertised without their knowledge, but it may affect approval of future CE applications submitted by a provider.

Currently, 3 CCR section 6513 requires the provider of CE courses to maintain records for three years from the licensee's course completion date. Additionally, each licensee is required to maintain their own records for three years of all approved CE hours acquired. Both providers and licensees are required to submit CE course records to DPR upon request. Licensees receive this request at time of their renewal.

DPR proposes to amend 3 CCR section 6513. Proposed subsection (a) deletes the word "successfully" since it is redundant with the word "completed." Proposed subsection (b) makes editorial nonsubstantive changes. Proposed subsection (c)(5) would delete reference to the regional accreditation committee. In 1996, DPR repealed the establishment of the regional accreditation committee (Office of Administrative Law File No. 96-0624-07).

In subsection (c)(6), DPR proposes to require each record to include the date of course completion. The completion date is important because a licensee must have taken the CE within the time frame that the license is active in order to renew without re-examining. Currently CE courses are associated with a sequentially applied identification (ID) number that identifies the year for which the course is valid. In the future, when DPR implements an online license renewal process, the ID number associated with the course will be randomly generated by the software. The date of course completion, along with the course name, will become the primary verification that the course was taken during the appropriate two-year license period.

DPR proposes to add subsection (e) to require the provider to electronically submit specific information to DPR within 14 days of course completion for each licensee. A provider may use the services of a third party entity to comply with the reporting requirements. This proposed amendment is necessary to ensure a more efficient and timely renewal for licensees.

DPR's obligation is to facilitate a process that will allow DPR to reissue licenses or certificates promptly so that individuals can maintain their license without a lapse in work eligibility. Requiring that sponsors submit records to DPR within 14 days becomes particularly important during the renewal period between mid-August and December 31, when DPR may process over 9,000 renewal applications each year. In many cases, CE courses are attended in late fall since many licensees may have difficulties attending CE courses during the peak growing seasons. Lack of ability to verify course completion may result in a delay in renewing a license or certificate. Renewal without a financial penalty must occur by the end of the calendar year and licensees may not legally work as of January 1 if they have not renewed their DPR license. It is reasonable to require providers to report records within two weeks after completion of the full course or program so that licensees can renew in a timely manner and avoid loss of work that may be caused by a provider's failure to report promptly.

Proposed subsection (e) also requires that provider's CE records to be submitted to DPR over the Internet using the Department's online Web site or via an electronic data file transfer process. This change is necessary because the way in which DPR now validates CE for each licensee's renewal application is essentially a manual process that can take up to eight weeks to complete during the busiest season. This process will be much improved and streamlined by utilizing Internet technology. In the near future, DPR will be implementing online renewal for licensees and the online reporting of CE records is necessary to support online renewal.

Currently, at least 98 percent of the providers have Internet capability and many already maintain their records electronically (i.e., WORD, Excel, etc.). Providers will be given two options to submit their records: (1) upload an Excel-type file with the attendees' information to DPR's Web site; or (2) enter the attendee's license number directly into the Web site. Since DPR approves all CE courses and maintains licensee information, entering the licensee's number will automatically generate the required information necessary to verify CE hours, therefore enabling DPR to process renewals more efficiently and promptly. A provider may designate another party to submit to DPR the CE records required in this section.

In sum, the impact to providers of submitting the records that they are currently required to keep should be minimal. Additionally, the current manual system that DPR uses to verify CE hours for each renewal applicant is time-consuming and not supportive of the future online renewal. Receiving the name of class and date directly from providers through on-line reporting would increase efficiency, reduce paperwork, and automate the verification of renewal eligibility for all licensees.

DPR also proposes to reorder current subsection (e) to (f) and make an editorial correction. A reference citation is being deleted. FAC section 12980.1(c) does not exist.

CONSULTATION WITH OTHER AGENCIES

The Agricultural Pest Control Advisory Committee (APCAC), established by statute in the FAC, advises the DPR Director in all matters concerning the licensing, certification, and regulation of persons and firms providing pest control advice and services in California. DPR shared the intent of the regulation as well as draft proposed language for 3 CCR section 6513 revisions at the November 16, 2010, and February 11, 2011 APCAC meetings. DPR has also shared this information with the county agricultural commissioners at area group meetings and through written correspondence. DPR consulted with the State of Arizona, which successfully implemented online renewal more than three years ago.

ALTERNATIVES TO THE PROPOSED REGULATORY ACTION [GOVERNMENT CODE SECTION 11346.2(B)]

DPR has not identified any feasible alternatives to the proposed regulatory action that would lessen any possible adverse economic impacts, including any impacts on small businesses, and invites the submission of suggested alternatives.

ECONOMIC IMPACT ON BUSINESS

The proposed regulations will not have a significant economic impact upon business. The document relied upon to make this determination is listed in the “Documents Relied Upon” section of this initial statement of reasons and is available from DPR.

IDENTIFICATION OF ANY SIGNIFICANT ADVERSE ENVIRONMENTAL EFFECT THAT CAN REASONABLY BE EXPECTED TO OCCUR FROM IMPLEMENTING THE PROPOSAL

DPR’s review of the proposed action showed that no significant adverse environment effect to California’s air, soil, water, plants, fish, or wildlife can reasonably be expected to occur from implementing the proposal. Therefore, no alternatives or mitigation measures are proposed to lessen any significant adverse effects on the environment.

EFFORTS TO AVOID UNNECESSARY DUPLICATION WITH FEDERAL REGULATIONS

The proposed regulatory action does not duplicate or conflict with the Code of Federal Regulations.

DOCUMENTS RELIED UPON

1. APCAC Meeting Minutes. Dated November 16, 2010 and February 24, 2011.
2. Economic Analysis for Proposed Regulation Department of Pesticide Regulation No. 11-003. California Environmental Protection Agency, Economic Studies Section, Air Resources Board. Memorandum from Stephen Storelli to Linda Irokawa-Otani, Regulations Coordinator, DPR. March 3, 2011.