



California Notice 2006-03

NOTICE OF FINAL DECISION REGARDING RENEWAL OF REGISTRATION OF PESTICIDE PRODUCTS FOR 2006

The Director of the Department of Pesticide Regulation (DPR), pursuant to Title 3, California Code of Regulations (3CCR) section 6255, files this notice regarding the 2006 renewal of pesticide product registrations with the Secretary of the Resources Agency to be posted for a period of 30 days for public inspection. DPR initially proposed to renew the registrations of pesticide products for the calendar year 2006 by posting a notice, dated November 3, 2005, for public review and comment pursuant to 3CCR section 6253.

Introduction

DPR thoroughly evaluates each pesticide active ingredient substance before it is registered for the first time. In addition, DPR endeavors to eliminate from use any pesticide product that endangers the environment or is not beneficial for the purpose for which it was sold or is misrepresented.

The renewal of the certificate of registration of a pesticide product for a subsequent year requires submission of a renewal application and fee within one month of the December 31 expiration date. Food and Agricultural Code (FAC) section 12812 authorizes the Director to establish, by regulation, annual fees for each product submitted for registration and penalties for the late payment of registration fees. The adoption of 3CCR section 6216 established the annual renewal fee at \$750 for each pesticide product. Late submissions incur a penalty fee as provided for in FAC section 12818 and 3CCR section 6217. The registrations of pesticide products are renewed following each registrant's compliance with filing and fee payment requirements.

If a case for reevaluation of a registered pesticide is advanced, DPR evaluates the information to determine if a reevaluation should be initiated. DPR may decide to place a pesticide product into reevaluation as a result of input derived from various sources including:

1. DPR's evaluation of public and private research studies.
2. DPR's regular consultation with DPR's Pesticide Registration and Evaluation Committee.
3. Daily registration activities and contact with the U.S. Environmental Protection Agency.
4. Registrant submissions of adverse effects disclosures pursuant to FAC section 12825.5.



5. Public comments, which may be received at any time or may result from DPR's posting of notices of registration activities for review.

DPR posts notices of proposed reevaluations for 30 days to provide opportunity for public comment. DPR files notices of final reevaluation decisions with the Secretary of the Resources Agency to be posted for a period of 30 days for public inspection. DPR prepares and makes available to the public semiannual reports on pesticide products under reevaluation or for which factual information has been received.

Comments Received in Response to the Notice of Proposed Decision

The November 3, 2005 Notice and Public Report on the renewal of the registrations of pesticide products for the calendar year 2006 elicited three comments.

On December 7, 2005, the law firm of McKenna Long & Aldridge (McKenna) submitted two letters on behalf of Syngenta Crop Protection LLC, objecting to DPR's proposed decision to renew for the year 2006 the registrations of the following pesticide products: Quali-Pro Abamectin 0.15EC, EPA Reg. No. 72167-42-73220; ABBA 0.15 EC, EPA Reg. No. 62097-11; Piccolo, EPA Reg. No. 62097-11; Serene, EPA Reg. No. 75802-1; Allegiance FL Seed Treatment Fungicide, EPA Reg. No. 7501-171; Raxil MD Fungicide, EPA Reg. No. 7501-172; and Raxil XT Wettable Powder Fungicide, EPA Reg. No. 7501-42-ZB. McKenna stated that renewing the registrations of the above seven pesticide products would mean that DPR was using Syngenta Crop Protection LLC's data without its permission. In addition, McKenna feels that renewing the registrations of the seven products would be a violation of the judgment entered March 2004 in the Syngenta Crop Protection, Inc. and Dow Agrosiences LLC v. Helliker, Case No. BC 253 673. McKenna also feels that renewing the registrations of three of the seven products would be a violation of the decision of the United States District Court for the Central District of California in *Chemical Producers and Distributors Association v. Paul E. Helliker, Director of the California Department of Pesticide Regulation*, 319 F.Supp.2d 1116. Both judgments are currently on appeal.

DPR responded to the letters and informed McKenna that the renewal of pesticide product registrations is a relatively ministerial process not requiring the submission of scientific studies. Therefore, DPR did not consider, rely upon, or use any Syngenta Crop Protection, LLC. data when renewing the registrations of the seven pesticide products listed above. In addition, DPR does not feel that renewal of the seven pesticide products' registrations is a violation of the March 2004 judgment, particularly in light of the fact that an appeal from the judgment is pending. Based on a careful evaluation of the submitted comments, DPR determined that California law and regulation require renewal of the registrations of the seven pesticide products listed above. DPR did not receive any comments that raised a significant adverse environmental point regarding registered pesticide products.

On December 8, 2005, the law firm of Michael W. Graf (Graf) submitted a letter on behalf of Baykeeper and Pesticide Action Network requesting that DPR initiate reevaluation of pesticide products containing pyrethroids as an active ingredient. Graf indicated that the increasing use of pyrethroids is likely to have significant impacts on the environment and pyrethroid contamination presents significant risks to aquatic ecosystems and wildlife.

DPR responded to the letter and informed Graf that DPR 's Environmental Monitoring Branch had recently requested that all urban and agricultural use products containing pyrethroids be placed into reevaluation. That request is awaiting the concurrence of other DPR managers and the Director. Following concurrence, DPR will prepare a reevaluation notice and letters to registrants with products included in the reevaluation.

Finding

The Director finds that the pesticides currently under reevaluation and those pesticides under consideration for reevaluation constitute all of the pesticides for which sufficient information that would necessitate reevaluation pursuant to 3CCR sections 6220 and 6221 has been received or may have been received. Insufficient information has been received to necessitate reevaluation of other pesticides at this time. DPR is currently conducting risk assessments of certain pesticides pursuant to the Birth Defect Prevention Act. A risk assessment is more comprehensive than a reevaluation under 3CCR sections 6220 and 6221.

The decision to renew the registrations of those pesticide products registered in 2005 for the calendar year 2006 is adopted pursuant to FAC sections 12817-12820.

Original Signed By

February 27, 2006

Barry Cortez, Chief
Pesticide Registration Branch
(916) 445-4377

Date