



Department of Pesticide Regulation



Brian R. Leahy
Director

Edmund G. Brown Jr.
Governor

California Notice 2015-06

TO: Pesticide Product Registrants

SUBJECT: REGISTRATION FEE INCREASE

The Department of Pesticide Regulation (DPR) held a Registration Fee Workshop on Wednesday, January 14, 2015, to discuss an increase in registration fees for pesticide products. DPR further announced that it would accept written comments until Friday, March 13, 2015.

DPR thanks its stakeholders for submitting comments on the proposal to increase fees for its pesticide product registration program. After careful evaluation of all of the comments received, DPR plans to move forward with the necessary regulation changes necessary to increase DPR's registration and renewal application fees to \$1,150. DPR also plans to establish a \$25 application fee on all pesticide product amendments, including substantive label amendments, non-substantive label amendments, label changes required by the U.S. Environmental Protection Agency or any other federal or state agency, amendments to the formulation of the pesticide product, and notifications. As required by statute, DPR will file these regulation changes as an emergency regulation. In response to comments, DPR will delay the effective date of the proposed fee increase from July 1, 2015 to October 1, 2015.

Enclosed you will find a document summarizing and providing answers to issues raised by respondents.

If you have questions, please contact me by email at <Ann.Prichard@cdpr.ca.gov> or at the number below.

Original signed by

April 15, 2015

Ann M. Prichard, Chief
Pesticide Registration Branch
916-324-3931

Date

Enclosure



Registration Fee Increase

Response to Comments and Questions

The Department of Pesticide Regulation (DPR) reviewed each comment. This document summarizes and provides answers to concerns raised by respondents.

Objection to Use of Emergency Regulation

DPR received multiple comments that objected to the use of emergency rulemaking to promulgate regulations for the registration fee increase. DPR wants to clarify that the decision to file this regulation as an emergency was not the department's, but instead mandated by statute. DPR derives its rulemaking authority to set registration fees from the Food and Agriculture Code (FAC). FAC section 12812(e) states “...*the adoption, amendment, readoption, or repeal of these regulations shall be considered by the Office of Administrative Law as an emergency, and necessary for the immediate preservation of public peace, health, safety, and general welfare. Notwithstanding any other provisions of law, the regulations shall remain in effect until amended by the director.*”

DPR values stakeholder feedback and was concerned that the emergency rulemaking process prioritized expediency at the expense of stakeholder input. To that end, DPR convened the January 14, 2015, workshop on the proposed registration fee increase and solicited input from stakeholders. The workshop and comment period were conducted to provide interested parties sufficient time to understand the issue and comment on the proposal.

Difficulty Budgeting for Fee Increase and Request Implementation of Fee Increase in Next Calendar Year

DPR received comments from stakeholders that budgeting for the proposed fee increase would be difficult and requested that DPR delay implementation of the fee increase until the next calendar year. DPR sympathizes with registrants that may have difficulty budgeting for the fee increase.

In an effort to aid registrants with their budgets, DPR will delay the effective date of the proposed fee increase by three months, moving the implementation date from July 1, 2015, to October 1, 2015. In addition, while DPR prefers that registrants submit their applications for renewal as soon as possible after receipt, Title 3 California Code Regulations (3 CCR) section 6217 provides for a one-calendar-month grace period for renewals. As long as your renewal application is postmarked by January 31, no late penalty is incurred.

DPR also wants to point out that while the budget for the registration program has been in deficit since fiscal year 2010-11, the deficits during the first three years (from 2010-11 to 2012-13) were 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. It was not until fiscal years 2013-14 and 2014-15 that the deficit grew and merited action (this coincides with new employee bargaining contracts and higher funding required by the California Public Employees Retirement System). Additionally, DPR was aware that the Pesticide Registration Data Management System (PRDMS) project was close to being approved by the Department of Technology and the Department of Finance. Taking action to raise registration fees one year

earlier would have resulted in DPR raising registration fees again the next year to account for the increase in funding needed for PRDMS. Regardless of when fees are raised, the amount needed to support the registration program in fiscal year 2015-16 would have been the same as in the current proposal.

Registration Fee Increase May Lead to Cancellations, Lower Revenues

DPR received comments expressing concern that a fee increase would lead to voluntary product cancellations and non-renewal of pesticide product registrations resulting in lower revenues from registration fees and mill assessment (i.e., a reduction in registered products would result in fewer pesticide product sales resulting in less mill assessment revenue). DPR understands that raising its registration fees may lead to a reduction in the registration and use of pesticide products. As mentioned above, the registration program must be self-supporting pursuant to law. Consequently, DPR is raising fees to support the program and the increases are based on current and historical registration submissions and renewals.

Charge a Lower Fee for Renewals than for New Pesticide Product Registrations

The commenter is correct that the evaluation of a new pesticide product, especially one containing a new active ingredient requires more effort and expenditure of human capital than a renewal. However, the fees proposed by DPR are not set based on the cost incurred in processing each different type of submission. The fees are set to assure that the registration program as a whole is self-supporting. As mentioned in the workshop, the registration program includes many other program activities (e.g., special local needs registrations, Section 18 emergency exemptions from registration, research authorizations, business functions, and adverse effects submissions) for which a fee is not charged. The fee charged for new products, renewals, and amendments must cover all of the activities included in the registration program.

No Amendment Fee

DPR explored the possibility of no longer charging a fee for pesticide product amendments and relying entirely on pesticide product registration and renewal fees to fund the registration program. However, FAC section 12812(a), states that registration “... *fees shall include*, but are not limited to, the following: (1) Annual fees for each product submitted for registration; (2) Penalties for the late payment of registration fees; (3) *Fees for amendments to registered products.*” Based on this language, DPR’s legal office opined that an amendment fee is required.

In addition, DPR determined that having one fee of \$25.00 for all types of pesticide product amendments will eliminate confusion as to when the fee is required. The amendment fee will apply to all types of pesticide product amendments, including substantive label amendments, non-substantive label amendments, label changes required by the U.S. Environmental Protection Agency or any other federal or state agency, amendments to the formulation of the pesticide product, and notifications. Applying the fee to all types of amendments is expected to lower the number of individual amendment submissions received by DPR for a given product. In addition, the reduction in the amount of the fee or one fee amount for all amendments is expected to increase registrant compliance.

Small Business Exemption or Waiver for Reduced Fees

DPR believes reduced fees for registrants that are determined to be “small businesses” may have merit and will explore and research the framework needed to implement such a program. However, it is not under consideration for this current regulation change.

Efficiency Suggestions

Commenters provided DPR with a number of efficiency suggestions, many of which are expected to be an outcome of the new PRDMS (e.g., online stamped label availability, simultaneous evaluation by stations when possible, online payments, transparency and control for registrants with regard to individual submissions, and others) that DPR will take into consideration.