

TITLE 3. DEPARTMENT OF PESTICIDE REGULATION
Pesticide-Treated Seeds
DPR Regulation No. 26-001

NOTICE OF PROPOSED REGULATORY ACTION

The Department of Pesticide Regulation (DPR) proposes to adopt section 6626.5 and amend sections 6000, 6147, 6691 and 6760 of Title 3, California Code of Regulations (3 CCR). The pesticide regulatory program activities affected by the proposal are those pertaining to the handling of pesticide-treated seeds in California and the reporting and enforcement of their use. In summary, the proposed regulatory action will add a definition for pesticide-treated seed; exempt pesticide-treated seeds from registration when they meet certain conditions specific to California; require the reporting of pesticide-treated seeds planted in California; and provide exemptions to regulatory requirements for the planting of pesticide-treated seeds when certain conditions are met. The proposed rulemaking harmonizes DPR's regulation of pesticide-treated seeds with the United States Environmental Protection Agency's (U.S. EPA) regulation of pesticide-treated seeds as pesticides exempt from registration under Title 40, Code of Federal Regulations (40 CFR) section 152.25(a) and places additional California-specific conditions on the manufacture, import, sale, and use of pesticide-treated seeds.

SUBMITTAL OF COMMENTS

Any interested person may present comments in writing about the proposed regulatory action to the agency contact person named below. Written comments must be received no later than June 29, 2026. Comments regarding this proposed regulatory action may also be transmitted via the SmartComment online public comment portal at <https://cdpr.commentinput.com?id=HYKegrj3J>.

Please note that under the California Public Records Act (Government Code section 7920.000 et seq.), your written and oral comments, attachments, and any associated contact information (e.g., your address, phone number, or email address) become part of the public record and can be released to the public upon request. You do not have to provide contact information when submitting a comment using the SmartComment portal.

A public hearing is not scheduled. However, one will be scheduled if any interested person submits a written request to DPR no later than 15 days prior to the close of the written comment period.¹

EFFECT ON SMALL BUSINESS

DPR has determined that the proposed regulatory action does affect small businesses.

¹ If you have special accommodation or language needs, please include this in your request for a public hearing. TTY/TDD speech-to-speech users may dial 7-1-1 for the California Relay Service.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Background

DPR protects human health and the environment by fostering sustainable pest management and regulating pesticides. DPR strictly oversees pesticides in the State by evaluating and registering products; regulating pesticide sales and use; licensing commercial and private pesticide applicators, pest control businesses, dealers, and advisers statewide; conducting environmental monitoring; and testing pesticide residues on fresh produce. This statutory scheme is set forth primarily in Food and Agricultural Code (FAC) Divisions 6 and 7 and applies to the manufacture, import, sale, and use of “pesticides,” defined by FAC section 12753 in relevant part as “[a]ny substance...which is intended to be used for....preventing, destroying, or mitigating any pest... .”

Both U.S. EPA and DPR have regulatory authority over the registration, sale, and use of pesticides in California. With limited exceptions, pesticides must be registered by U.S. EPA and DPR before they are sold or distributed into or within California. To obtain registration with U.S. EPA and DPR, applicants are required to submit comprehensive product chemistry, efficacy, and safety data. This data is evaluated to confirm the identity of the product and to assess potential impacts to human health and the environment.

The Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) grants U.S. EPA discretion to exempt from its requirements “any pesticide” that is “of a character which is unnecessary to be subject to [FIFRA] in order to carry out the purposes of [FIFRA]” (FIFRA 25(b), 7 U.S.C. section 136w(b)). U.S. EPA exempts treated articles, including pesticide-treated seeds, from regulation under FIFRA pursuant to FIFRA section 25(b). The exemption includes treated articles and substances that are “treated with, or containing, a pesticide to protect the article or substance itself (for example, paint treated with a pesticide to protect the paint coating, or wood products treated to protect the wood against insect or fungus infestation), if the pesticide is registered for such use.” (40 CFR section 152.25(a)).

FAC section 12803 authorizes DPR to adopt regulations to exempt pesticides exempt under FIFRA section 25(b) from all or part of the requirements of FAC Division 7 if both of the following apply: (a) the director individually evaluates each listed substance exempted pursuant to the federal authority and concurs in the decision by U.S. EPA to exempt that substance; and (b) the director excludes from the regulation requirements that are necessary to protect human health or the environment. FAC section 12803(b) also states that “Notwithstanding any other provision of law, the Director shall retain authority to regulate any substance exempted pursuant to this section whether registered or not.” Existing 3 CCR section 6147 lists pesticide products exempted pursuant to FIFRA section 25(b) that are exempt from the requirements of FAC Division 7.

As required by FAC section 12803(a), DPR concurs with U.S. EPA’s decision to exempt pesticide-treated seeds from registration requirements based on its thorough scientific evaluation and assessment of the treating pesticide, and is proposing to exempt pesticide-treated seeds from certain regulatory requirements provided they meet the following two conditions: (1) the seed is treated with a pesticide to protect the seed and (2) any pesticide used to treat the seed is

registered by the Department for such use. DPR has individually evaluated each pesticide-treated seed that is currently eligible for the proposed exemption by evaluating the treating pesticide through the registration process. Prospectively, a “new” treated seed cannot qualify for the exemption under this two-condition framework until DPR has individually evaluated it through the treating pesticide’s registration process. To satisfy FAC section 12803(b), DPR is proposing to require that any pesticide used to treat seed be registered by DPR for such use and to require reporting for the planting of pesticide-treated seeds. The proposed regulation would also provide an exemption from pesticide application restrictions for planting pesticide-treated seeds near schoolsites during school hours and exempt the planting of pesticide-treated seeds from certain portions of the field worker protection standards when the seeds are planted below the soil surface.

Summary of the Effect of the Proposed Regulatory Action

The proposed regulatory action will add a definition for pesticide-treated seed; exempt pesticide-treated seeds from registration when they are treated with a pesticide to protect the seed and the pesticide is registered by the Department for such use; require the monthly reporting of pesticide-treated seeds by county in which the seeds were planted; and provide exemptions for the planting of pesticide-treated seeds to certain existing requirements pertaining to pesticide use near schoolsites or field worker safety when certain conditions are met. This action implicitly classifies pesticide-treated seeds as “pesticides” under the state definition of “pesticide” at FAC section 12753.

Anticipated Benefits of the Proposed Regulations

The broad objective of the proposed regulatory action is to benefit human health and the environment in California by:

- applying certain existing pesticide regulatory requirements to pesticide-treated seeds;
- requiring that all pesticide-treated seeds planted in California be treated with a DPR-registered seed treatment ensuring the seeds have been evaluated for potential adverse effects to human health and the environment prior to being planted in California, thereby closing a current loophole on use; and
- requiring pesticide use reporting for the planting of pesticide-treated seeds to enable DPR to track their use and assess potential impacts.

Evaluation of Inconsistency/Incompatibility with Existing State Regulations

During the process of developing the proposed regulations, DPR conducted a search of any similar regulations on this topic and has concluded that these proposed regulations are neither inconsistent nor incompatible with existing state regulations. The proposal will not interfere or otherwise impact other state agencies as DPR is the only agency that regulates pesticides within the State.

Relevant Litigation and Summary of Existing Laws

In 2023, Natural Resources Defense Council, Californians for Pesticide Reform, the Center for Biological Diversity, Friends of the Earth, and Pesticide Action Network North America (the

“Plaintiffs”) filed a lawsuit against DPR. Broadly speaking, the lawsuit alleged that DPR’s handling of pesticide-treated seeds constitutes an underground regulation in violation of the Administrative Procedure Act. In October 2024, Plaintiffs and DPR agreed to settle the case. As a result of this settlement, DPR is proposing regulations that will address pesticide-treated seeds.

Beginning January 1, 2027, FAC section 52484 will require agricultural or vegetable seed shipped, delivered, transported, or sold in California and treated with one or more pesticides to be labeled with the U.S. EPA registration number(s) of the products the seed was treated with, the signal word for the substance with the highest level of toxicity, and the quantity applied by weight or amount per seed.

COLLABORATION WITH OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT (OEHHA) PURSUANT TO FAC SECTIONS 12980 AND 12981

As discussed above, 3 CCR section 6760 is a regulation relating to pesticide worker safety. Therefore, DPR and OEHHA jointly and mutually developed the proposed regulations as specified in FAC sections 12980 and 12981. DPR and OEHHA have set forth the rulemaking process used to meet these statutory requirements in a Memorandum of Agreement dated August 13, 2008.

CONSULTATION WITH OTHER AGENCIES

DPR consulted with the California Department of Food and Agriculture (CDFA) during development of the text of the proposed regulations, as specified in FAC section 11454, the Memorandum of Understanding updated on January 15, 2019 that was developed per FAC section 11454.2, and ¶ 3(c) of DPR’s settlement agreement with the Plaintiffs of *Natural Resources Defense Council, Inc. et al. v. California Department of Pesticide Regulation et al.* (Feb. 17, 2023, 23CV028215).

DPR consulted with the University of California and the Department of Industrial Relations.

DPR also consulted with County Agricultural Commissioners.

DPR presented the proposed regulations to the Pesticide Registration and Evaluation Committee (PREC) on November 21, 2025. At the time of the presentation, the proposal did not include the additions to 3 CCR section 6760.

IMPACT ON LOCAL AGENCIES OR SCHOOL DISTRICTS

DPR determined that the proposed regulatory action does not impose a mandate on local agencies or school districts. DPR also determined that there are no costs to any local agency or school district requiring reimbursement pursuant to Government Code section 17500 et seq. CAC offices will be the local agencies responsible for enforcing the proposed regulations. As stated, DPR anticipates that there will be no fiscal impact to these agencies. DPR establishes an annual work plan with the CACs, which already requires the CACs to conduct pesticide use inspections and investigations and to enforce compliance with California pesticide regulations.

CAC offices use a mix of State and local funding to fund their local pesticide use enforcement programs. The amount of funding the State gives to the CACs is fixed by FAC section 12841(g)(1)(C), which says DPR must reimburse counties 7.6 mills of mill assessment for costs incurred by the counties for pesticide use enforcement. Pursuant to 3 CCR section 6391, reimbursement shall be made by April 1 of each year. DPR is not authorized to reimburse the counties more than the amount generated from 7.6 mills. Because the total funding level from DPR does not change, the counties' workload from this regulation may be redirected according to county priorities. Further, the overall impact to CACs is expected to be minimal as, according to the CDFA consultative analysis, most persons engaged in the planting of pesticide-treated seeds would already be familiar with pesticide use reporting from the application of other pesticides and no additional operator or site identification numbers would need to be established.

OTHER NONDISCRETIONARY COST OR SAVINGS IMPOSED UPON LOCAL AGENCIES

There are no other nondiscretionary costs or savings imposed upon local agencies that are expected to result from the proposed regulatory action.

COSTS OR SAVINGS TO STATE AGENCIES

The proposed regulations are anticipated to have a fiscal impact on DPR. To expand existing reporting features to include pesticide-treated seeds, DPR anticipates a cost of \$20,000 in State Fiscal Year 26-27.

EFFECT ON FEDERAL FUNDING TO THE STATE

DPR determined that no costs or savings in federal funding to the state will result from the proposed regulatory action.

EFFECT ON HOUSING COSTS

DPR made an initial determination that the proposed regulatory action will have no effect on housing costs.

SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESSES

DPR made an initial determination that this proposal will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. The proposed regulations will harmonize DPR's regulation of pesticide-treated seeds with U.S. EPA's regulation of pesticide-treated seeds as pesticides exempt from registration and imposes additional California-specific conditions on the manufacture, import, sale, and use of pesticide-treated seeds, such as adding reporting requirements for the planting of pesticide-treated seeds similar to those required for other pesticide applications. The estimated five-year lifetime cost of the proposed regulations is \$343,107. DPR made this determination based on the economic impact report prepared by the CDFA's Office of Pesticide Consultation and Analysis, titled, "Economic analysis of proposed changes to regulations on pesticide treated seeds," dated April 7, 2026, which is listed in the

“Documents Relied Upon” section of the Initial Statement of Reasons for this proposed regulatory action and is available from DPR.

COST IMPACTS ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES

Businesses and growers that engage in the sale and planting of pesticide-treated seeds may be impacted through additional licensing, work requirements, and worker protection costs. However, most farms that use pesticide-treated seed would already have personnel on site that are familiar with use reporting from the application of existing pesticides. Likewise, farmers and pest control businesses planting pesticide-treated seeds should already have personnel licensed or certified for pesticide applications. For licensing and certification requirements for pest control dealers, DPR has been informed that growers generally purchase seeds for several commodities (e.g., corn, soybean, cotton) treated from pesticide registrant companies and other untreated seeds would be treated as a service through third-party applicators. In both instances, the businesses applying the pesticide treatment to seeds would be licensed for those applications. Impacts to field worker safety requirements are also expected to be minimal as operations involving the planting of pesticide-treated seeds would have processes, training, and equipment in place for the application of more conventional pesticides.

CDFA’s economic impact report notes that estimating the potential impact of the proposed regulatory action is challenging and provides a range of cost estimates for those planting pesticide-treated seeds that may otherwise not be familiar with the handling of pesticides and reporting their use. The report estimates additional costs associated with handler training, which is an existing requirement that will apply once pesticide-treated seeds are designated as pesticides; training on the generation and submission of use reports for the planting of pesticide-treated seeds; and regulatory training to ensure staff understand and comply with the new requirements. The report provides three estimates, depending on the share of operations (10%, 20%, 50%) that would require one employee to undergo handler and reporting training and to read and understand the proposed regulations. To remain conservative, DPR used the upper bound estimate and calculated an average cost of \$60.72 per business in the first year with recurring average annual costs of \$12.14 per business.

BUSINESS REPORTING REQUIREMENT

It is necessary for the health, safety, or welfare of the people of the state that the regulation which requires a report apply to businesses.

RESULTS OF THE ECONOMIC IMPACT ANALYSIS

Impact on the Creation, Elimination, or Expansion of Jobs/Businesses: DPR determined it is not likely the proposed regulatory action will impact the creation or elimination of jobs, the creation of new businesses or the elimination of existing businesses, or the expansion of businesses currently doing business with the State of California because the proposed regulatory action is not likely to affect employers’ seed-planting activity and will only minimally increase current training and reporting to cover the planting of pesticide-treated seeds.

This regulatory action will benefit human health, worker safety, and the environment in California by subjecting pesticide-treated seeds to existing regulatory requirements for pesticides that are designed to protect human health, workers, and the environment; requiring that all

pesticide-treated seeds planted in California use a DPR-registered seed treatment, thereby closing a current loophole on use and ensuring the seeds have been evaluated for potential adverse effects to human health and the environment prior to being planted in California; and requiring pesticide use reporting for planting of pesticide-treated seeds, which will enable DPR to track and assess their use and potential impact.

CONSIDERATION OF ALTERNATIVES

DPR must determine that no reasonable alternative considered by the agency, or that has otherwise been identified and brought to the attention of the agency, would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed regulatory action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of the law.

AUTHORITY

This regulatory action is taken pursuant to the authority vested by FAC sections 11456, 11502, 12781, 12803, 12976, and 12981.

REFERENCE

This regulatory action is to implement, interpret, or make specific FAC sections 2281, 11501, 11501.5, 11708, 11733, 12753, 12803, 12979, 12980, and 12981.

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

DPR prepared an Initial Statement of Reasons and is making available the express terms of the proposed regulatory action, all of the information upon which the proposal is based, and a rulemaking file. A copy of the Initial Statement of Reasons and the proposed text of the regulation may be obtained from the agency contact person named in this notice. The information upon which DPR relied in preparing this proposal and the rulemaking file are available for review at the address specified below.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After the close of the comment period, DPR may make the regulation permanent if it remains substantially the same as described in the Informative Digest. If DPR does make substantial changes to the regulation, the modified text will be made available for at least 15 days prior to adoption. Requests for the modified text should be addressed to the agency contact person named in this notice. DPR will accept written comments on any changes for 15 days after the modified text is made available.

AGENCY CONTACT

Written comments about the proposed regulatory action; requests for a copy of the Initial Statement of Reasons, and the proposed text of the regulation; and inquiries regarding the rulemaking file may be directed to:

Lauren Otani, Regulations Coordinator
Department of Pesticide Regulation
1001 I Street, P.O. Box 4015
Sacramento, California 95812-4015
916-445-5781

Note: In the event the contact person is unavailable, questions on the substance of the proposed regulatory action may be directed to the following back-up person at the same address as noted below:

Bryan George, Environmental Program Manager I
Pesticide Evaluation Branch
916-324-3890

This Notice of Proposed Regulatory Action, the Initial Statement of Reasons, and the proposed text of the regulation are also available on DPR's Internet Home Page <<http://www.cdpr.ca.gov>>. Upon request, the documents can be made available in another language, or an alternate form as a disability-related accommodation.

AVAILABILITY OF FINAL STATEMENT OF REASONS

Following its preparation, a copy of the Final Statement of Reasons mandated by Government Code section 11346.9(a) may be obtained from the contact person named above. In addition, the Final Statement of Reasons will be posted on DPR's Internet Home Page and accessed at <<http://www.cdpr.ca.gov>>.