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NOTICE OF PROPOSED RULEMAKING
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 603
DEPARTMENT OF AGRICULTURE

FILED

07/26/2022 2:31 PM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: Increase Pesticide Registration Fee and Make Nonrefundable

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 08/31/2022 5:00 PM

The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.

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635 Capitol St. NE
Salem, OR 97301

Filed By:
Alex Thomas
Rules Coordinator

HEARING(S)

Auxiliary aids for persons with disabilities are available upon advance request. Notify the contact listed above.

DATE: 08/17/2022

TIME: 8:00 AM

OFFICER: Judith Callens

ADDRESS: Oregon Department of Agriculture
635 Capitol St. NE
Salem, OR 97301

SPECIAL INSTRUCTIONS:

Virtual Hearing

For hearing information, please contact:

Judith.Callens@ODA.Oregon.Gov

NEED FOR THE RULE(S)

In 2015, legislation increased the staffing of the Pesticides Program and of the Pesticide Analytic Response Center (PARC). The new positions and the expenses associated with the increase in personnel were funded by pesticide registration fees. House Bill 3549 (2015) increased the statutory maximum for pesticide registration fees to \$400. For the 2016 registration year, the Department of Agriculture determined that the fees needed to be increased to only \$320. Due to increased expenses, this rule amendment will change the annual registration fee, which is currently \$320.00, to a nonrefundable annual fee of \$360.00.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE

ORS 634.016

78th Oregon Legislative Assembly – 2015 Regular Session, Enrolled HB 3549 and SB 5507 (related to funding for Oregon Health Authority), Oregon Legislative Website at <https://olis.leg.state.or.us/liz/2015R1/2015-01-12#>.

STATEMENT IDENTIFYING HOW ADOPTION OF RULE(S) WILL AFFECT RACIAL EQUITY IN THIS STATE

An increase in pesticide registration fees will help fund the program to: provide Worker Protection Standard Training; conduct outreach and education on EPA's new Certification and Training law, which has specific requirements for the supervision of noncertified applicators; modernize Spanish language examinations; and increase overall outreach to Spanish speaking pesticide users.

FISCAL AND ECONOMIC IMPACT:

The registration fee will be paid by companies that manufacture or market pesticide products in Oregon. Companies marketing conventional pesticide products in the U.S, incorporate state pesticide registration fees into their business plan for marketing their product. Companies that market less conventional pesticide products are aware of registration fees, because such fees have been required for many years. The 12.5% increase in fees will increase the fiscal and economic impact on the companies, but the additional \$40.00 will typically only be only a small percentage of the market value of the pesticide product in Oregon, and thus, the companies can absorb the increase. The industry workgroup suggested that the fee be nonrefundable to increase efficiencies, and reduce agency time spent on noncompliant submittals.

COST OF COMPLIANCE:

(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s). (2) Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s); (b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s); (c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).

1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)):

There will be minimal impact on the cost of compliance beyond the amount of the fee. Companies already incur the cost of sending the fee to the Oregon Department of Agriculture. The Oregon Department of Agriculture assists companies by mailing an annual reminder letter to pesticide registrants. A notice of the fee increase will be included in the annual letter.

2. Cost of compliance effect on small business (ORS 183.336):

a. Estimate the number of small businesses and types of business and industries with small businesses subject to the rule:

The types of businesses that will be affected are companies that sell pesticides, or entities that register a pesticide with ODA. Approximately 1,488 businesses will potentially be affected. Many of the impacted businesses are large multi-national corporations; however, approximately 34 of the businesses are in Oregon and 20 could potentially be considered small businesses.

b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services: There are no additional requirements mandated by this rule.

c. Equipment, supplies, labor and increased administration required for compliance: There are no additional requirements mandated by this rule.

DESCRIBE HOW SMALL BUSINESSES WERE INVOLVED IN THE DEVELOPMENT OF THESE RULE(S):

Industry representative groups, such as Oregonians for Food and Shelter, CropLife America and several pesticide registrants, were involved in developing the legislation that increases the agency resources funded by this fee increase. The groups represent both small and large businesses and have indicated support for the registration fee increase provided by this proposed rule.

WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? NO IF NOT, WHY NOT?

The agency worked very closely with industry representative groups through-out the entire process.

AMEND: 603-057-0006

RULE SUMMARY: Currently, the annual registration fee is \$320.00. The rule increases the annual nonrefundable registration fee for each pesticide and each formula or formulation to \$360.00. House Bill 3549 (2015) increased the statutory maximum for pesticide registration fees to \$400. However, the Department of Agriculture has determined that at this time the fees need to be only be increased to \$360. This rule also makes the fee nonrefundable.

CHANGES TO RULE:

603-057-0006

Pesticide Registration Fees ¶

(1) The annual registration fee for each pesticide product for calendar year ~~2015~~22 shall be ~~\$16~~320.¶

(2) Beginning for ~~2016~~23 pesticide product registration, the annual nonrefundable registration fee for each pesticide product shall be ~~\$32~~60.

Statutory/Other Authority: ORS 634;~~;~~ HB 3549 (2015);~~;~~ HB 5002 (2015); ~~and~~ SB 5507 (2015)

Statutes/Other Implemented: ORS 634, HB 3549 (2015), HB 5002 (2015), ~~and~~ SB 5507 (2015)