

California's PFAS Pesticide Proposal Highlights Growing Divide Between State and Federal Regulation

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California lawmakers are again leading the charge on chemical regulation, this time through a proposal targeting per- and polyfluoroalkyl substances (PFAS) in agricultural pesticides. The bill, AB 1046, introduced in April, would ban in California the use, sale, and manufacture of pesticides that contain certain PFAS and ban all pesticides that contain PFAS in California by 2035. It would also immediately pause approval of new pesticide products that contain intentionally-added PFAS and require public disclosure of PFAS in the products.

This proposal reflects growing concerns over PFAS, particularly in the food supply. Supporters point to recent testing that reports showing that PFAS residues were found on a significant percentage of produce grown conventionally within the state, including strawberries, peaches, and nectarines. Approximately 66 pesticides registered with the Environmental Protection Agency (EPA) contain PFAS chemicals. Fifty-three of those 70 are registered for use in California. EPA recently approved new pesticides containing isocycloseram (an insecticide for crops like grains and fruits) and cyclobutrifluram (a fungicide for turf/seeds), finding that these chemicals did not meet its definition of PFAS. As a result, a number of states, including California, are attempting to step into the void and regulate pesticides that they believe contain PFAS.

Federal Regulation Remains Product-Specific

The federal government has taken a more incremental approach to regulating pesticides, declining to adopt a categorical ban on PFAS-containing pesticides. Instead, pesticide regulation continues through the existing registration framework under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), evaluating individual active ingredients and requisite warnings based on a product's specific use, rather than extending designations to all products containing or produced with a designated PFAS substance.

That distinction matters, because historically at the federal level, regulatory ties to a product's specific use have prevented one product's restriction from automatically applying to products that may produce different chemical risks based on their differing use, despite containing the same original substance that would be regulated under a sweeping ban. In contrast, California's proposed class-based regulation of PFAS proposes to remove products throughout the market if they are found to contain a designated substance, even absent findings related to a specific product's compound-by-compound chemical interactions; and therefore, that specific product's level of risk.

Meanwhile, federal regulators have recently declined to expand PFAS pesticide restrictions, despite pressure from environmental groups nationwide. In January 2025, the EPA dropped a proposal that would have limited the amount of PFAS a corporation, including farms, could discharge into local waterways. As a result, the federal government continues to rely on product-specific registration, regulating PFAS while considering a product's specific use.

A Growing Divide

This divergence creates a familiar tension for farmers, distributors, and operations manufacturers nationwide: a product may remain federally registered, and therefore legal to distribute under federal law, yet restricted or commercially impractical in major state markets. The size of the California market allows such state-level action to have impacts beyond its borders, particularly where manufacturers choose to reformulate nationally, rather than

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maintain separate state-specific formulas

Thus, operational adjustments under the bill could affect supply chains for cross-state growers relying on pesticide formulations currently approved under federal law, creating implications throughout the agricultural market. Further, labeling requirements may introduce operational and disclosure questions during California's proposed 'phase out' period for distributors and retailers previously unaffected by use-case based designations. As several pesticides that some allege contain PFAS remain lawful under federal standards, farming operations carried out across state borders may face parallel obligations that are legally valid, but operationally inconsistent with their competition located elsewhere. As a result, given the federal government's prohibition on state action that unduly burdens interstate commerce under the Commerce Clause, California's proposal may also invite constitutional scrutiny.

Agricultural Industry Issues to Watch Moving Forward

The proposal also raises enforcement questions. Unlike product categories traditionally preserved for state regulation, such as packaging or cookware, agricultural pesticides sit within an already dense federal-state regulatory structure. California traditionally retains broad authority over pesticide use within its borders, but any state restriction effectively conflicting with labeling already federally approved could invite preemption arguments, particularly if future restrictions extend beyond ingredient bans and into application conditions, or product availability within the market.

For farmers and agricultural businesses alike, the practical issue of substitution remains unresolved. PFAS compounds are often used because of their chemical stability and performance characteristics, including resistance to heat and degradation. Meanwhile, a state-driven phaseout has the potential to accelerate demand for alternatives; while replacement chemistries may face their own registration delays, efficacy concerns, or similar health fears.

This ongoing debate suggests that policy surrounding PFAS regulation has become increasingly fragmented, as states and the federal government differ on how to classify these substances; whether regulation should focus on a product's individual chemical risks or should instead include all products containing the same substance even if its use differs. California's proposal, along with states' attempts to regulate PFAS in consumer products, clearly creates a conundrum for farmers, agricultural businesses and other product manufacturers and retailers, as they evaluate compliance, operational strategy, and risk assessment in the years ahead.

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