

September 17, 2021

Julie Henderson, Acting Director
California Department of Pesticide Regulation
1001 I Street, P.O. Box 4015
Sacramento, CA 95812-4015

Re: Comments on DPR Emergency Action: Proposed Fee Increase

Dear Acting Director Henderson:

On August 3, 2021 the Department of Pesticide Regulation (DPR) announced its intent to proceed with emergency regulations to increase pesticide registration fees as well as amend the Application for Pesticide Registration DPR-REG-030. The Household & Commercial Products Association (HCPA)¹ appreciates the opportunity to provide comments in response to the proposed increase in fees to support product registrations and transition to an electronic system. Furthermore, HCPA is grateful for the additional time afforded by the Department to provide comments on the proposed emergency action.

Through the proposed emergency regulations, DPR seeks to increase renewal application fees from \$1,150, to 1,525. This amounts to a 33 percent increase for the cost of product renewal

¹ HCPA is the premier trade association representing the interests of companies engaged in the manufacture, formulation, distribution and sale of more than \$180 billion annually in the U.S. of familiar and trusted consumer products that help household and institutional customers create cleaner and healthier environments. HCPA member companies employ hundreds of thousands of people globally. Products HCPA represents include disinfectants that kill germs in homes, hospitals and restaurants; air fresheners, room deodorizers, and candles that eliminate odors; pest management products for home, lawn and garden, and pets; cleaning products and polishes for use throughout the home and institutions; products used to protect and improve the performance and appearance of automobiles; aerosol products and a host of other products used every day.

applications that are already the highest in the nation. HCPA does not oppose reasonable pesticide fees if coupled to process improvements and remains concerned that the increase is not accompanied by important accountability measures to establish transparent and predictable timelines, in addition to assurance regarding the timely implementation of CalPEST. We appreciate the Department's recognition of these concerns as well as its stated efforts to streamline internal processes to improve registration timeframes, such as updating the procedural desk manual, digitizing hard copy documents, and additional job aides. We understand the Department's position that timeframes are variable due to a number of factors. However, input and collaboration with stakeholders contextualize timeframes and other issues in a way that is advantageous to the Department as well as stakeholders, which is critical to the measurement of the CalPEST. Therefore, we urge further consideration of prior and ongoing stakeholder comments and engagement during the emergency action process.

The proposed fee must be delayed until 2022 and provide time to pay the difference

While we recognize the Department made public its intention to raise fees under *possible* scenarios earlier this year, it was not until August 3, 2021 that registrants were made aware of the fee structure that would be sent to the Office of Administrative Law under the proposed emergency action. The financial impact to registrants is significant under the new increase and an eight-week lead time to plan, budget, and identify funds to cover the new costs that were not accounted for in previous fiscal budget plans will create serious burdens on businesses, and therefore isn't a reasonable implementation timeline. Additionally, many businesses continue to struggle with the challenges of the ongoing pandemic and increased costs due to inflation. Giving sufficient time to allow registrants to recalibrate budgets would be judicious for impacted stakeholders and workable for DPR.

At minimum, registrants could better absorb the transition to the new fee structure by having more time to pay the difference in the increase. To that end, HCPA believes DPR must permit the differential in the fee increase to be due by July 2022 in order to give businesses time to reallocate funding.

CalPEST completion remains a concern

HCPA continues to believe there should be a structure in place to provide assurance that CalPEST will meet its completion deadlines. This includes designated milestones for achieving the implementation of CalPEST which will benefit both registrants and the Department. In 2015, registration and renewal fees increased by 53 percent to its current levels, at the time work was underway toward an electronic registration system that ultimately did not come to fruition. What will happen to the additional fee revenues should the CalPEST effort meet the

same fate as the prior project? At the very least, fees should be reevaluated if key implementation milestones are not met.

CalPEST is a unique opportunity for timelines

HCPA reiterates the concerns raised in our letter to DPR dated, April 19, 2021 on the importance of transparent timelines and the benefit they have for DPR, registrants, and consumers. It is worth further noting that while HCPA fully supports CalPEST and appreciates participation in the reinitiated Advisory Group, CalPEST alone is not a solution to predictable registration timelines given it is designed to intake and track registrations, and products will still need to move through the evaluation process. The need for embedding transparent and predictable timelines into the DPR process is all the more important at this time with a new electronic system on the horizon. An electronic submission system that will be built around DPR's payment, tracking, review, and approval of registration applications, supporting documentation, as well as renewal processes will need to incorporate and coordinate activity with any established timeframes. Otherwise, these processes and workflows would need to be reevaluated post implementation of CalPEST.

HCPA urges the Department to define success

Given the goal of CalPEST is largely designed to improve the efficiency of the registration process, HCPA further believes DPR should provide greater transparency for existing timeframes at a product type level prior to the implementation of CalPEST. Without information on the number of registrations and timeframes on a more granular basis, it will be difficult for the public, and even DPR, to measure improvement in the system. Any significant investment should have clearly defined metrics for outputs and a baseline measurement understood by the public and DPR will be important to achieve success.

Are the fees really temporary?

The Budget Change Proposal (3930-002-BCP-2021-GB) released in January proposing a new fee increase was explicit that the fees would be a "temporary increase." While the "Finding of Emergency" document released on August 1, 2021 states the Department will "reevaluate" its fee structure in 2025, it is not clear that these fees will sunset automatically. Clarification on whether these fees are temporary as originally indicated is critical for registrants.

Economic analysis

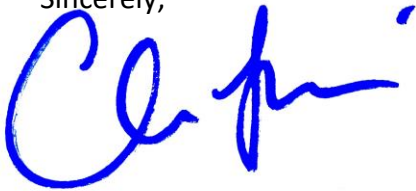
Finally, while DPR recognizes the cost impact on registrants, there does not appear to be any kind of thorough analysis of this concern. While the economy remains secure in many ways, consumer goods are facing some of the worst inflationary pressure in a decade. As we emerge

from the pandemic it is critical that these decisions are not made in a vacuum. As stated in HCPA's letter to DPR in April, the proposed fees will significantly increase the cost of business for the manufacturers of antimicrobials, which are used to protect against bacteria and viruses, pet care products, which are used to protect our pets against fleas and ticks, lawn care products, which are used to protect against invasive species, insecticides used in and around the home to combat pests, and many other uses.

HCPA continues to have discussions with DPR staff and leadership on the importance of transparent and predictable timelines and values the receptivity to not only hearing our concerns but taking the time to articulate DPR's unique challenges. We look forward to continuing that productive dialogue.

Once again, thank you for the opportunity to comment on DPR's proposed pesticide registration fee schedule. If you have any questions about our comments, please do not hesitate to contact me at cfinarelli@thehcpa.org.

Sincerely,



Christopher Finarelli

Director, State Government Relations & Public Policy - Western Region

Cc: Office of Administrative Law (OAL)

Lauren Otani, Department of Pesticide Regulation