



June 22, 2016

The Pesticide Registration Improvement Extension Act of 2012 (PRIA 3, P.L. 112-177): Authorization to Collect Fees

Pursuant to the Pesticide Registration Improvement Extension Act of 2012 (PRIA 3; P.L. 112-177), Congress authorized the U.S. Environmental Protection Agency (EPA) to collect and use two types of fees to enhance and accelerate the agency's pesticide registration program and related activities. Without reauthorization of these authorities, EPA's authority to collect one type of fee—*pesticide maintenance fees*—terminates at the end of FY2017, while the authority to collect the other type of fee—*pesticide registration service fees*—begins to phase out at the end of FY2017.

Background

EPA assesses fees on pesticide manufacturers and distributors (both referred to as “registrants”) for pesticide registrations and pesticide-related applications. A combination of these fees (which must be appropriated) and discretionary appropriations from the General Fund pay for EPA's pesticide regulatory activities as authorized by two statutes. The Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA; 7 U.S.C. §136 et seq.) requires EPA to review and register the use of pesticide products meeting certain statutory criteria and periodically reevaluate existing pesticide registrations (i.e., registration review). Section 408 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. §346a) requires EPA to establish maximum limits (“tolerances”) for pesticide residues in or on food and animal feed.

Since 1954, Congress has authorized the collection of different types of fees to partially defray various costs related to federal pesticide regulation activities. (Appropriations fund the remainder of the costs.) The Pesticide Registration Improvement Act of 2003 (PRIA 1; P.L. 108-199, Division G, Title V) established the current pesticide fee framework in 2004. The Pesticide Registration Improvement Renewal Act (PRIA 2, P.L. 110-94) and PRIA 3 made amendments to this framework.

PRIA 1 provides the current framework for EPA to collect maintenance fees and registration service fees. PRIA 1 modified provisions originally enacted in 1988 that authorized the collection and use of maintenance fees to enhance and accelerate a one-time EPA review of pesticide registrations that the agency issued prior to November 1, 1984 (i.e., reregistration). PRIA 1 also authorized a new type of fee—registration service fees—to defray costs associated with EPA review of applications for registering new pesticide active ingredients and products, adding new uses to existing pesticide registrations, establishing and amending tolerances, and amending pesticide labels. PRIA 1 established a schedule outlining the fee amounts associated with specific activities (the fee schedule is

printed in *Congressional Record*, September 7, 2003, pp. S11631-S11633) and required EPA to complete its review within a specific timeframe for each category of applications if EPA collected the fee.

PRIA 2 reauthorized and amended the pesticide fee framework. PRIA 2 added new categories of applications for which registration service fees may be assessed (the updated fee schedule is printed in *Congressional Record*, July 31, 2007, pp. S10409-S10411), revised the schedule of timeframes in which EPA is required to make a decision on an application, and adjusted the fee amounts for both maintenance and registration service fees.

With PRIA 3, Congress reauthorized and further amended the pesticide fee framework. The following two sections summarize current provisions regarding maintenance fees and registration service fees.

Pesticide Maintenance Fees

Under current law, the authority to collect pesticide maintenance fees terminates on September 30, 2017.

FIFRA Section 4 (7 U.S.C. §136a-1), as amended, sets annual maximum maintenance fees per registrant generally based on the number of registrations held. Section 4 provides “small business” waivers and fee reductions and exemptions for certain public health pesticides. Congress also limited EPA to collecting an aggregate amount of maintenance fees annually (\$27.8 million per fiscal year) from FY2013 through FY2017. Nonpayment of maintenance fees can result in the cancellation of associated pesticide registrations.

Collected maintenance fees are deposited as receipts in the “Reregistration and Expedited Processing Fund” in the U.S. Treasury. These fees are made available to EPA as mandatory appropriations for offsetting costs associated with (1) evaluating inert ingredients and expedited processing of certain applications within specified statutory time frames, and (2) reevaluating registered pesticides (including setting tolerances). Additionally, FIFRA directs EPA to use up to \$800,000 per year from FY2013 through FY2017 to enhance information systems capabilities to improve tracking of pesticide registration decisions.

Pesticide Registration Service Fees

Under current law, the authority to collect registration service fees begins to phase out starting at the end of FY2017 with EPA having authority to collect fees at reduced levels through FY2019—reduced by 40% during FY2018 and 70% during FY2019. After FY2019, the authority to collect registration service fees expires.

FIFRA Section 33 (7 U.S.C. §136w-8), as amended, sets registration service fee amounts that EPA is authorized to assess depending on the application submitted and which requisite action the applicant requests out of 189 specific actions. Section 33 requires EPA to complete review of the requested action within deadlines associated with each category of action. (The schedule of fees is in statute rather than printed in the *Congressional Record*.) Section 33 provides “small business” fee reductions, and EPA may exempt from or waive a portion of the registration service fee for an application for “minor uses” of a pesticide. Section 33 exempts certain applications involving tolerance setting in the “public interest” and federal and state governmental entities from registration service fees.

FIFRA Section 33 requires EPA to deposit collected pesticide registration service fees as receipts in the “Pesticide Registration Fund” in the U.S. Treasury. Subsequent appropriations acts are required to collect and obligate registration service fees. Once Congress appropriates the fee receipts, EPA may use them without fiscal year limitation for the following purposes:

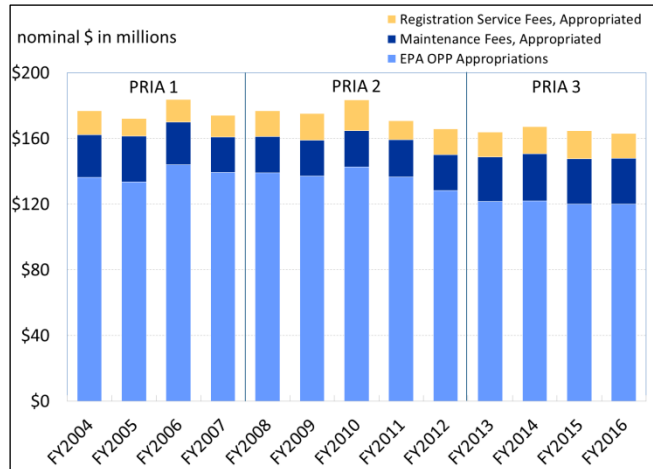
- Covering costs associated with the review and decisionmaking of applications received with the payment of the applicable registration service fee;
- Enhancing scientific and regulatory activities related to worker protection;
- Awarding partnership grants (\$500,000 in aggregate annually from FY2013 through FY2017); and
- Carrying out a pesticide safety education program (\$500,000 annually from FY2013 through FY2017).

FIFRA Section 33 prohibits EPA from assessing registration service fees if the amount of congressional appropriations for specified functions conducted by the EPA Office of Pesticide Programs (OPP) (excluding any fees appropriated) is less than the corresponding FY2012 appropriation (\$128.3 million). For FY2013 through FY2016, appropriation acts provided for EPA assessment of registration service fees notwithstanding the conditional provision that appropriated funds be no less than FY2012 levels.

Fees and Appropriations for EPA Pesticide Program Activities

Under Title II of Division G of the Consolidated Appropriations Act, 2016 (P.L. 114-113), Congress appropriated a total of \$8.14 billion for EPA for FY2016 and specifically provided a combined total of \$120.2 million within three of EPA’s nine appropriations accounts—Environmental Programs and Management, Science and Technology, and the State and Tribal Assistance Grants accounts—to support the agency’s pesticide program activities for the year. The President’s budget request for FY2017 proposes \$128.3 million for these activities. **Figure 1** presents the amount of appropriations provided to EPA OPP and the amount of maintenance fees and registration service fees collected since the enactment of PRIA 1 in 2004.

Figure 1. EPA Office of Pesticide Programs Appropriations, Maintenance Fees, and Registration Service Fees, FY2004-FY2016



Source: Explanatory statements accompanying appropriations acts with regard to EPA, correspondence with EPA, and EPA annual reports on PRIA implementation.

Notes: PRIA 1 became effective March 23, 2004. PRIA 2 became effective October 1, 2007. PRIA 3 became effective October 1, 2012. Registration service fees for FY2016 are estimated by EPA.

Accounting, Auditing, and Reporting

FIFRA requires the EPA inspector general to annually audit the Reregistration and Expedited Processing Fund and Pesticide Registration Fund in accordance with the Chief Financial Officers Act of 1990 (P.L. 101-576), as amended, and FIFRA and submit the findings and recommendations of the audit to EPA and certain congressional committees.

FIFRA Section 33 requires EPA to annually report on various aspects of its pesticide program activities. EPA publishes historical and current reports on its website at <https://www.epa.gov/pria-fees>.

Reauthorization

The President’s FY2017 budget request does not include reauthorization of pesticide fee provisions. If Congress were to consider reauthorization, the following topics may be of interest based on the debate of prior PRIAs:

- Amounts that EPA would be authorized to collect from maintenance fees and registration service fees and the pesticide-related activities that collected fees would be authorized to fund;
- Waivers and reductions of fees for “small business” entities; and
- Increased flexibility for EPA to spend collected maintenance fees (specifically proposed in President’s FY2017 budget request).

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