

Pesticide Registration Fees: Reauthorization and Proposed Amendments

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The U.S. Environmental Protection Agency's (EPA's) capacity to evaluate pesticide registrations within statutory time frames is generally dependent on sufficient resources and requisite scientific information to inform evaluations. Pursuant to the Pesticide Registration Improvement Extension Act of 2012 (PRIA 3, P.L. 112-177), Congress reauthorized EPA to collect two categories of fees to support the agency's pesticide regulatory program and related activities through September 30, 2017. The Continuing Appropriations Act, 2018, and Supplemental Appropriations for Disaster Relief Requirements Act, 2017 (P.L. 115-56), enacted September 8, 2017, extends to December 8, 2017, EPA's authority to collect and expend one of these fees—*pesticide maintenance fees*. The authority to collect the other fees—*pesticide registration service fees*—is also extended to December 8, 2017, before phasing out unless further extended. If authority to collect pesticide registration service fees were to expire, EPA would no longer be required to complete the evaluation of applications within statutory time frames.

On March 20, 2017, the House passed the Pesticide Registration Enhancement Act of 2017 (H.R. 1029, H.Rept. 115-49), which would reauthorize the collection of both fees and amend how EPA obligates monies derived from fee collections. On June 29, 2017, the Senate Committee on Agriculture, Nutrition, and Forestry reported an amendment to H.R. 1029, renamed the Pesticide Registration Improvement Extension Act of 2017. Both versions of H.R. 1029 are discussed below.

Background

EPA assesses fees on pesticide registrants (i.e., manufacturers and distributors) for pesticide registrations

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and pesticide-related applications. These fees, in conjunction with discretionary appropriations, support EPA's pesticide regulatory activities as authorized by two statutes—the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA, 7 U.S.C. §136-136y) and Section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA, 21 U.S.C. §346a). FIFRA requires EPA to (1) evaluate proposed uses of pesticides and register (i.e., license) pesticide products that meet certain statutory criteria and (2) periodically reevaluate existing pesticide registrations (i.e., registration review). For pesticides used in food production, FIFRA requires EPA to establish maximum limits (“tolerances”) for pesticide residues in accordance with FFDCA Section 408.

Since 1954, Congress has authorized the collection of various fees to partially defray certain costs associated with federal pesticide program activities. Annual appropriations generally fund the remainder of the expenditures. 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 reauthorized fee collections and further amended the framework. These past reauthorizations have generally received widespread support in Congress and among stakeholders.

(For more information on PRIA 1, PRIA 2, and PRIA 3, see CRS In Focus IF10424, *The Pesticide Registration Improvement Extension Act of 2012 (PRIA 3, P.L. 112-177): Authorization to Collect Fees*, by (name redacted) and (name redacted))

Pesticide Maintenance Fees

House-passed H.R. 1029 would reauthorize the collection of pesticide maintenance fees through September 30, 2023. The Senate-committee-reported amendment would extend the authority three fewer years to September 30, 2020.

Both versions of H.R. 1029 would amend FIFRA Section 4 (7 U.S.C. §136a-1) to increase the cap on annual maintenance fees per registrant and the aggregate for all maintenance fees (from \$27.8 million per fiscal year to an average amount of \$31.0 million per fiscal year). “Small business” waivers and fee reductions and exemptions for certain public health pesticides would be retained in both versions of H.R. 1029.

Maintenance fees collected by EPA would continue to be deposited as receipts in the “Reregistration and Expedited Processing Fund” of the U.S. Treasury and made available to EPA without further appropriation to offset costs associated with (1) pesticide registration review, (2) tracking and implementing registration review decisions, and (3) making enhancements to information system capabilities to track registration decisions. Additionally, both versions of H.R. 1029 would direct EPA to set aside not more than \$500,000 for each of two new purposes: (1) to prescribe standards for demonstrating the effectiveness of pesticides intended to address bed bugs, pests that feed on humans and pets, and fire ants and (2) to enhance the Good Laboratory Practices Standards compliance monitoring program.

Pesticide Registration Service Fees

House-passed H.R. 1029 would reauthorize the collection of pesticide registration service fees under FIFRA Section 33 (7 U.S.C. §136w-8) through September 30, 2025 (with the last two years having reduced rates). The Senate-committee-reported amendment would extend the authority for three fewer years to September 30, 2022 (also with the last two years having reduced rates).

Both versions of H.R. 1029 would revise registration service fee amounts for different actions the applicant may request the agency to conduct. Under PRIA 3, Congress set fees for 189 specific actions.

Both versions of H.R. 1029 would set fees for 212 actions. Additionally, both versions of H.R. 1029 would revise certain time frames in which EPA is required to complete review of a requested action and retain fee reductions and waivers for eligible entities (e.g., minor use pesticide manufacturers, small businesses, and federal and state agencies).

Pesticide registration service fees collected by EPA would continue to be deposited as receipts in the “Pesticide Registration Fund” of the U.S. Treasury and would be made available to EPA through subsequent appropriations acts. EPA would still be authorized to use fee receipts without fiscal year limitation for

- covering costs associated with reviewing applications received with the payment of the applicable registration service fee;
- enhancing worker protection activities;
- awarding worker protection partnership grants (\$500,000 in aggregate annually); and
- carrying out a pesticide safety education program (\$500,000 annually).

Neither version of H.R. 1029 would amend FIFRA Section 33(d)(2), which prohibits EPA from collecting registration service fees if annual appropriations (excluding any fees appropriated) for specified functions of EPA’s Office of Pesticide Programs are less than the FY2012 appropriation level of \$128.3 million. For FY2013 through FY2017, appropriations acts provided less than the level specified in current law (i.e., FY2012 level) but authorized the assessment of registration service fees by waiving the FIFRA Section 33(d)(2) condition.

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