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## The Pesticide Registration Improvement Act of 2022 (PRIA 5; Division HH, Title VI of P.L. 117-328): Authority to Collect Fees

The Pesticide Registration Improvement Act of 2022 (PRIA 5; Division HH, Title VI of the Consolidated Appropriations Act of 2023, P.L. 117-328) reauthorized the collection and use of two types of fees to enhance and accelerate the U.S. Environmental Protection Agency’s (EPA’s) pesticide registration program and related activities. Without the reauthorization of these authorities, EPA’s authority to collect one type of fee—*pesticide maintenance fees*—would have expired at the end of FY2023, while the authority to collect the other type of fee—*pesticide registration service fees*—would have begun to phase out at the end of FY2023. PRIA 5, among other things, extended the authority to collect pesticide maintenance fees through FY2027 and the authority to collect pesticide registration service fees through FY2029.

### Background

EPA assesses fees on pesticide manufacturers and distributors (both referred to as *registrants*) for pesticide registrations and pesticide-related applications. Maintenance fees (which are made available to EPA as mandatory appropriations), registration service fees (which must be appropriated), and discretionary appropriations from the General Fund are used to pay for EPA’s pesticide regulatory activities as authorized by two statutes: (1) The Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA; 7 U.S.C. §136 et seq.), which requires EPA to review and register the use of pesticide products that meet certain statutory criteria and to periodically reevaluate existing pesticide registrations (i.e., registration review); and (2) Section 408 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. §346a), which requires EPA to establish maximum limits (“tolerances”) for pesticide residues in or on food and animal feed.

The Pesticide Registration Improvement Act of 2003 (PRIA 1; P.L. 108-199, Division G, Title V) established 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 PRIA 1 modified provisions originally enacted in 1988 that authorized the collection and use of maintenance fees to enhance and accelerate a one-time EPA review of pesticide registrations that the agency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 pesticides, 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 and required EPA to complete its review within a specific time frame for each category of applications if EPA collected the fee.

The Pesticide Registration Improvement Renewal Act (PRIA 2; P.L. 110-94), the Pesticide Registration Improvement Extension Act of 2012 (PRIA 3; P.L. 112-177), and the Pesticide Registration Improvement Extension Act of 2018 (PRIA 4; P.L. 116-8) reauthorized and amended the pesticide fee framework. PRIA 2, PRIA 3, and PRIA 4 added new categories of applications for which registration service fees may be assessed, revised the schedule of time frames 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 5, 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

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*, which are defined as minor use pesticide products registered for use and used predominantly in public health programs for vector control (i.e., measures intended to control the population of species that can transmit disease pathogens to humans) or for other recognized health protection uses. Section 4 also limits EPA to collecting an aggregate amount of maintenance fees that average \$42.0 million per fiscal year from FY2023 through FY2027.

Nonpayment of maintenance fees can result in the cancellation of associated pesticide registrations. EPA orders to cancel pesticide registrations due to nonpayment of maintenance fees are published in the *Federal Register*. See, for example, 87 *Federal Register* 10200, February 23, 2022.

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) processing registrant submissions not covered by registration service fees; (2) reevaluating registered pesticides through registration review (including reviews associated with Endangered Species Act consultations); (3) tracking and implementing registration review decisions; (4) developing efficacy test methods for antimicrobial pesticide devices making public health claims and enhancing the good laboratory practices standards compliance monitoring program; and (5) implementing information system capabilities to improve the tracking of pesticide registration decisions. Additionally, Section 4

authorizes certain set-asides from maintenance fee collections for farmworker training and education grants, health care provider training, partnership grants, a pesticide safety education program, technical assistance for individuals applying for and receiving grants funded by set-asides, EPA staff training to implement FIFRA, an expedited review voucher program for mosquito and other vector control pesticides, and a pesticide surveillance program.

The authority to collect maintenance fees expires at the end of FY2027.

### Pesticide Registration Service Fees

FIFRA Section 33 (7 U.S.C. §136w-8), as amended, sets registration service fee amounts that EPA is authorized to assess, which vary depending on the type of application submitted and which requisite action the applicant requests from EPA out of 226 specific actions identified in a series of tables. Section 33 requires EPA to complete review of the requested action by or before deadlines based on the category of action. Section 33 provides small business fee reductions, and EPA may exempt or waive a portion of the registration service fee for an application for *minor uses* of a pesticide. Section 33 exempts from registration service fees certain applications that involve tolerance setting for which the agency has determined that the exemption is in the “public interest” and applications submitted by federal and state governmental entities.

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 for EPA to collect registration service fees from applicants and obligate receipts from this Fund. 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 adjudication of applications received with the payment of the applicable registration service fee;
- developing and issuing guidance for the evaluation of potential adverse effects from outdoor uses of pesticide products on species listed under the Endangered Species Act and their designated critical habitat; and
- entering into contracts to conduct independent assessments of the workforce and processes used to implement PRIA 5.

FIFRA Section 33 prohibits EPA from assessing registration service fees if the amount of annual appropriations for specified functions conducted by the EPA Office of Pesticide Programs (OPP) (excluding any fees appropriated) is less than \$166.0 million. The amount of annual appropriations for the specified functions are split among program areas and activities within 3 of EPA’s 10 appropriations accounts—Science and Technology, Environmental Programs and Management, and State and

Tribal Assistance Grants accounts. The Consolidated Appropriations Act, 2023 (P.L. 117-328), authorized EPA to assess registration service fees notwithstanding the conditional provision that appropriated funds be no less than \$166.0 million. EPA expected to collect approximately \$20.0 million in registration service fees during FY2022 under PRIA 4.

The authority to collect registration service fees begins to phase out starting at the end of FY2027, with EPA having authority to collect fees at reduced levels through FY2029—reduced by 40% during FY2028 and 70% during FY2029. After September 30, 2029, the authority to collect registration service fees expires.

### Accounting, Auditing, and Reporting

FIFRA requires the EPA Inspector General to 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 submit the findings and recommendations of the audit to EPA and certain congressional committees. Additionally, FIFRA 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>.

### Other Provisions

PRIA 5 also included provisions related to pesticide labeling and the review of pesticide registrations. Section 702 of PRIA 5 added Section 3(f)(5) to FIFRA, directing EPA to generally require that human health precautionary language on labeling for registered pesticide products be translated into Spanish. EPA is to implement these labeling requirements under a schedule spanning three to eight years, based on the use and relative toxicity of the pesticide product.

Section 711 of PRIA 5 extended the deadline for completing initial registration review of pesticides until October 1, 2026, notwithstanding the current deadline of October 1, 2022, as specified in FIFRA Section 3(g). Prior to this amendment, EPA had reported that it had not completed registration review for all pesticides subject to the review. For registration review cases not already completed and for which effects determinations or consultations have not been completed pursuant to Section 7(a)(2) of the Endangered Species Act, Section 711 of PRIA 5 directs EPA to include as part of its registration review measures to reduce the effects of such pesticides on listed species or their critical habitats. In developing such measures, EPA must take into account input by the U.S. Departments of Agriculture, Commerce, and the Interior and the Council on Environmental Quality.

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