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Pesticide Registration and Tolerance Fees: An Overview

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Summary

The Pesticide Registration Improvement Extension Act of 2012 (PRIA 3; P.L. 112-177), enacted September 28, 2012, amended the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Federal Food, Drug, and Cosmetic Act (FFDCA) to reauthorize and revise, through FY2017, the collection and use of fees to enhance and accelerate the U.S. Environmental Protection Agency's (EPA's) pesticide licensing (registration) activities. Among other provisions, P.L. 112-177 increases the amounts of certain fees, revises the schedule for fee assessment and review deadlines for reviewing specific registration decisions, modifies provisions for small business reductions of fees, adds provisions for the enhancement of pesticide decision information tracking systems and for initial content preliminary screening activities, and eliminates pre-PRIA reregistration fee (1988) authorities. PRIA 2 (P.L. 110-94), enacted October 9, 2007, which was set to expire at the end of FY2012, reauthorized and revised fee collection provisions first established under PRIA 1 (P.L. 108-199), enacted January 23, 2004.

EPA is responsible for regulating the sale, use, and distribution of pesticides under the authority of two statutes. FIFRA (7 U.S.C. §136-136y), a licensing statute, requires EPA to review and register the use of pesticide products. FFDCA (21 U.S.C. §346a) requires the establishment of maximum limits (tolerances) for pesticide residues on food in interstate commerce. EPA was also required to reevaluate older, registered pesticides (i.e., "reregistration" for pesticides registered prior to 1984, and more recently, "registration review") and to reassess existing tolerances to ensure they meet current safety standards. Although U.S. Treasury revenues cover much of the costs for administering these acts, various fees paid by pesticide manufacturers and other registrants have supplemented EPA appropriations for many years as a means intended to, in part, increase the pace of the agency's activities under FIFRA and FFDCA.

In March 2013, EPA reported the completion of 1,574 pesticide registration-related decisions subject to PRIA 2 during FY2012, for a total of 12,165 decisions since the enactment of PRIA 1 in 2004. For FY2012, EPA reported expending \$13.4 million of the \$20.3 million in available revenues (composed of \$15.6 million in net receipts of new registration service fees collected in FY2012 and \$4.7 million carried forward from FY2011). Expenditures decreased by nearly 7% in FY2012 compared to \$14.3 million in FY2011, primarily a result of a 35% reduction in expenditures for contracts.

Authority for collecting pesticide fees dates back to the 1954 FFDCA amendments (P.L. 518; July 22, 1954), which, as passed, required the collection of fees "sufficient to provide adequate service" for establishing maximum residue levels (tolerances) for pesticides on food. Authority to collect fees was expanded with the 1988 FIFRA amendments (P.L. 100-532). The 1996 amendments to FIFRA and FFDCA, or the Food Quality Protection Act (FQPA; P.L. 104-170), extended EPA's authority to collect certain fees through FY2001. Prior to the enactment of PRIA 1 (P.L. 108-199) in 2004, Congress had extended these fee authorities annually through appropriations legislation. Since 1998, Presidents' budget requests have included proposals to modify existing fee structures to further increase revenues for pesticide activities, but were not adopted in legislation and in some cases specifically prohibited by Congress. The FY2013 President's budget request, submitted to Congress February 13, 2012, did not include similar proposals for supplemental fees, but instead acknowledged the need for reauthorization of the current fees at increased levels to cover a greater portion of relevant program operating costs.

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Introduction

The collection of fees to support U.S. Environmental Protection Agency (EPA) pesticide program activities in the implementation of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA; 7 U.S.C. §136-136y) and related requirements under the Federal Food, Drug, and Cosmetic Act (FFDCA; 21 U.S.C. §346a) has been a complex issue for more than 25 years. Authorities to collect fees in addition to appropriated funds have been provided over the years for the intended purposes of accelerating the agency's review efforts, and to fund its increasing statutory responsibilities (see "A Historical Overview of Pesticide Fee Authorities" later in this report). Current and successive past Administrations' proposals to modify and significantly increase pesticide fees have been at odds with the views of a range of stakeholders and controversial in Congress.

Congress acted to address several issues of concern and to facilitate timely completion of EPA's reviews through pesticide fee provisions included in the Consolidated Appropriations Act, 2004, enacted January 23, 2004 (P.L. 108-199), which came to be known as the Pesticide Registration Improvement Act, or PRIA 1.¹ Enacted October 9, 2007, P.L. 110-94—the Pesticide Registration Improvement Renewal Act (referred to as PRIA 2)²—revised and reauthorized the pesticide fee collection provisions effective retroactively³ to the beginning of FY2008 through FY2012. Authority to collect specific fees under PRIA 2 was scheduled to expire at the end of FY2012, with phase-out authority at reduced levels for certain fees⁴ through FY2014.

The Pesticide Registration Improvement Extension Act of 2012 (PRIA 3; P.L. 112-177),⁵ enacted September 28, 2012, revised and reauthorized through FY2017 pesticide fees established under PRIA 1 and revised by PRIA 2. Additionally, certain fee collections and apportionment are authorized on a reduced basis through FY2019. In addition, PRIA 3 revised review activities subject to fees and the associated timelines for completion of EPA review decisions. PRIA 3 also amended FIFRA by eliminating other pre-PRIA one-time reregistration fee collection authorities established under the 1988 amendments to FIFRA (P.L. 100-532).⁶ Under PRIA 1 and PRIA 2, collection of these 1988 fees was temporarily superseded, but these provisions were not removed from the law (see discussion in "Key Provisions of the Pesticide Registration Improvement Extension Act of 2012 (PRIA 3) as Enacted").

Prior to the passage of PRIA 3, the 112th Congress had included provisions to temporarily extend prior PRIA authorization in introduced legislation (H.R. 6083) to reauthorize the five-year farm bill,⁷ and in the continuing appropriations resolution (CR) for FY2013 (P.L. 112-175), enacted

¹ Title V- "Pesticide Products and Fees" of P.L. 108-199, to be cited as the "Pesticide Registration Improvement Act of 2003."

² PRIA 2 passed in both chambers by unanimous consent: S. 1983 was passed by unanimous consent in the Senate on August 2, 2007, and by unanimous consent in the House on September 24, 2007.

³ The authority for collection of pesticide fees under PRIA 1 would have expired at the end of FY2008 (with phase-out authority at reduced levels for FY2009 and FY2010).

⁴ 7 U.S.C. §136w-8(m).

⁵ PRIA 3 (P.L. 112-177, S. 3552) was passed without amendment by unanimous consent by the Senate on September 13, 2012 (consideration: CR S6370-6387), considered by unanimous consent (CR H6024-6042), and passed without objection by the House (CR H6025-6041) on September 14, 2012.

⁶ Section 2 of P.L. 112-177 strikes paragraphs (1), (2), (3), (4), and (7) under 7 U.S.C. §136a-1(i).

⁷ Title X, Horticulture, in H.R. 6083 as approved by the House Agriculture Committee on July 22, 2012, included (continued...)

September 28, 2012, to provide appropriations for federal departments and agencies—including EPA—funded under each of the regular appropriations bills through March 27, 2013.⁸ PRIA 3 as enacted superseded the PRIA provisions included in the FY2013 CR.⁹

General U.S. Treasury revenues are used to cover much of the administrative costs of EPA’s pesticide program (see **Table 2** later in this report), which implements requirements under FIFRA and FFDCA, as amended. However, fees also have been imposed on those who manufacture and distribute pesticides in U.S. commerce (i.e., “registrants”)¹⁰ to supplement EPA appropriations. Provisions in PRIA 1 modified existing pesticide fee authority to support specified activities and process improvements in an effort to achieve more timely completion of EPA’s statutory obligations under the authority of FIFRA and FFDCA. PRIA 2 (P.L. 110-94) renewed this authority with some technical revisions, primarily modifications to the fee payment process and an expansion of the range of categories of pesticide registration (licensing) activities subject to fees. PRIA 3 (P.L. 112-177), enacted September 28, 2012, modifies and expands on provisions included in PRIA 2.

In March 2013, EPA released its most recent annual PRIA progress report,¹¹ *Implementing the Pesticide Registration Improvement Act - Fiscal Year 2012* (or EPA’s FY2012 PRIA implementation report). The annual report provides information about the registration process, including the status of its registration, reregistration,¹² and registration review decisions and related activities, as well as EPA’s efforts to improve these processes during FY2012. EPA reported the completion of 1,574 registration decisions subject to PRIA during FY2012, compared with 1,544 decisions during FY2011.¹³ **Table 3** later in this report presents the number of completed PRIA registration decision/actions by pesticide type as reported by EPA for each of the fiscal years FY2004 through FY2012.

The following sections of this report provide a brief background of federal authority regarding pesticide fees, synopsis of the key elements and revisions reflected in PRIA 3, historical overview of pesticide fee collection authorities (**Table A-1** in the **Appendix** presents a historical chronology) and associated issues, summary of the amount of fee revenues collected over time

(...continued)

provisions reauthorizing, with modifications, PRIA 2 fee collection and apportionments from FY2013 through FY2017. See “Title X. Horticulture” heading in table presented in CRS Report R42552, *The 2012 Farm Bill: A Comparison of Senate-Passed S. 3240 and the House Agriculture Committee’s H.R. 6083 with Current Law*, coordinated by (name redacted).

⁸ Section 144 of P.L. 112-175 amended FIFRA to extend the authorization for EPA to collect and expend pesticide registration fees at current rates under existing law, and FFDCA to continue the existing prohibition on EPA’s collection of pesticide tolerance fees, through March 27, 2013.

⁹ Section 2(d), “Relationship to Other Law,” of P.L. 112-177 (S. 3552).

¹⁰ A registrant is defined as a person who has registered any pesticide pursuant to the provisions of FIFRA.

¹¹ Established initially in Section 33(k) of PRIA1, EPA is required to publish an annual report describing actions taken under this section, and directed to include several elements. EPA released its inaugural progress report covering the period January 23, 2004, through September 30, 2004, in March 2005, and released subsequent fiscal reports on an annual basis thereafter. The EPA PRIA implementation report for FY2012, released March 2013, and previous annual fiscal year reports are available at http://www.epa.gov/pesticides/fees/2012annual_report/#pesticide.

¹² The 1988 amendments to FIFRA (P.L. 100-532) define “reregistration” as reevaluation of pesticides registered prior to 1984. The use of the term reregistration throughout this CRS report is as defined by the 1988 amendments.

¹³ See “Pesticide Registration Service Fees—Progress in Meeting Decision Times,” in EPA’s *Implementing the Pesticide Registration Improvement Act - Fiscal Year 2012*, March 2013, at http://www.epa.gov/pesticides/fees/2012annual_report/progress-meeting-decision-times-fy2012.pdf.

and recent fiscal years' appropriations, and EPA's registration and reregistration review activities since enactment of PRIA 1. For a more complete overview of the federal pesticide laws, refer to CRS Report RL31921, *Pesticide Law: A Summary of the Statutes*, by (name redacted) and (name redacted).

Background

FIFRA is a licensing statute that requires EPA to register pesticide products before they can be sold, used, and distributed within the United States. EPA evaluates proposed pesticide registrations under a set of science-based safety standards. Before a registration can be granted for a "food use" pesticide, FFDCA¹⁴ requires that a tolerance (the maximum amount of pesticide residue permitted in or on food and feed) or tolerance exemption be in place. EPA was also required to reevaluate older, registered pesticides (i.e., reregistration) and to reassess existing tolerances (i.e., tolerance reassessment)¹⁵ to ensure they meet current safety standards.

Under the standards introduced by the 1996 amendments to FIFRA and FFDCA (the Food Quality Protection Act, or FQPA; P.L. 104-170), EPA establishes tolerances through rulemaking based on risk assessments and human health criteria to ensure a "reasonable certainty of no harm." For pesticides that are not used on food, FIFRA requires EPA to determine whether and under what conditions the proposed pesticide use would present an unreasonable risk to human health or the environment.

Congress has amended FFDCA and FIFRA over time to authorize the collection of fees to supplement appropriated funds for these and related pesticide review activities, in part, as a means of accelerating the pace of the agency's activities to meet statutory obligations. These activities include review of the science when evaluating new pesticide registrations, and the establishment of the maximum residue allowance (a "tolerance") as necessary. Also included is EPA's reevaluation of older pesticide registrations and existing tolerances (i.e., "tolerance reassessment") to ensure they meet current standards for protecting human health and the environment (see more detailed discussion in the following section of this report).

The 1954 amendments to FFDCA¹⁶ authorized the collection of fees to provide adequate service for establishing maximum allowable residue levels (tolerances) for pesticides on food. These amendments remain the basis for current "tolerance fee" authority. In May 1988, EPA promulgated a rule¹⁷ for collecting registration fees under the authority of the Independent Offices Appropriation Act (IOAA) of 1952 (31 U.S.C. §9701). Shortly after its promulgation, the rule was challenged in court by the Chemical Specialties Manufacturers Association,¹⁸ which questioned the appropriateness of the statutory authority cited. Collection of these registration fees, as promulgated in May 1988, was temporarily suspended through FY1997 by the 1988

¹⁴ FFDCA §§408 and 409, 21 U.S.C. §346a.

¹⁵ FIFRA and FFDCA as amended in 1996 (FQPA; P.L. 104-170), "tolerance reassessments" are defined as those tolerances in existence as of August 1996.

¹⁶ Section 408(o), as amended, the Pesticide Residue Amendment of 1954 (P.L. 518, 21 U.S.C. §46(a)). The current authority resides in FFDCA §408(m) (see 21 U.S.C. §346a(m)), per the 1996 amendments to FFDCA (FQPA).

¹⁷ 53 *Federal Register* 19108, May 26, 1988. See Subpart U of C.F.R. part 152.

¹⁸ *Chemical Specialties Manufacturers Association (now the Consumer Specialty Products Association) v. EPA*, No. 88-1525. D.D.C., July 25, 1988.

amendments to FIFRA (P.L. 100-532 Section 4[i][6]). The 1988 FIFRA amendments authorized the collection of a one-time “reregistration fee” for active ingredients¹⁹ and, through FY1997, annual “maintenance fees” for pesticide registered products in an effort to accelerate reregistration (review of pesticides registered before 1984).

Collecting registration fees as promulgated in May 1988 continued to be prohibited subsequently by the 1996 FIFRA/FFDCA amendments (FQPA) and in provisions of annual appropriations bills, including the PRIA provisions in the FY2004 Consolidated Appropriations. In the 1996 amendments to FIFRA and FFDCA (FQPA; P.L. 104-170), Congress, concerned with the continued pace of reregistration, extended EPA’s authority to collect the annual maintenance fees through FY2001. In addition, in an attempt to provide resources to address increased responsibilities of implementing new safety standards introduced with the 1996 amendments, maintenance fee authority was expanded to allow a portion of the collected revenue to be used to support the reevaluation of “old” existing tolerances (tolerance reassessment). These pesticide maintenance fees, along with tolerance fees based solely on petitions for establishing new tolerances, were the only pesticide fees collected by EPA during the eight years (FY1996-FY2003) prior to the enactment of PRIA 1. (A more detailed overview of fee authorities and revenues collected is presented in “A Historical Overview of Pesticide Fee Authorities,” later in this report.)

Following the enactment of the 1996 amendments and prior to the enactment of PRIA 1, EPA proposed modifications to the pesticide fee structure in annual fiscal year budget requests to significantly increase revenues, primarily to obtain supplemental resources to support increased administrative costs associated with implementing the requirements of FQPA. Proposals generally focused on finalizing a 1999 EPA proposed rule²⁰ to substantially revise tolerance fees and on a recommendation that Congress discontinue the legislative prohibition on pesticide registration fee authority promulgated in 1988. The proposed 1999 regulation to restructure the collection of tolerance fees was met with similar resistance as the May 1988 EPA registration fee rule. Industry groups questioned the authority to expand fee collection under FFDCA²¹ and the lack of a clearly defined schedule of specific agency activities to be supported by fee revenues. These groups also generally opposed EPA’s justification for proposing a tenfold increase, requiring retroactive fee payments, and imposing fees for inert ingredients.²² Congress prohibited promulgation of a tolerance fee rule that was based on the 1999 proposal in EPA’s FY2000 appropriations (P.L. 106-

¹⁹ 7 U.S.C §136, the term “active ingredient” means—(1) in the case of a pesticide other than a plant regulator, defoliant, desiccant, or nitrogen stabilizer, an ingredient which will prevent, destroy, repel, or mitigate any pest; (2) in the case of a plant regulator, an ingredient which, through physiological action, will accelerate or retard the rate of growth or rate of maturation or otherwise alter the behavior of ornamental or crop plants or the product thereof; (3) in the case of a defoliant, an ingredient which will cause the leaves or foliage to drop from a plant; (4) in the case of a desiccant, an ingredient which will artificially accelerate the drying of plant tissue; and (5) in the case of a nitrogen stabilizer, an ingredient which will prevent or hinder the process of nitrification, denitrification, ammonia volatilization, or urease production through action affecting soil bacteria.

²⁰ U.S. EPA, “Pesticides; Tolerance Processing Fees (Proposed Rule),” 64 *Federal Register* 31040-31050, June 9, 1999.

²¹ Several industry groups disagreed and were concerned with EPA’s interpretation that the statute provided authority to collect 100% of the cost of tolerance reassessment using fees. (EPA Docket # OPPT-301151 and OPPT-301151B.)

²² Inert ingredients are not active but rather are “other” ingredients contained in a pesticide product formulation. Inerts can be solvents or surfactants, and often compose the bulk of the pesticide product. Some inerts are known to be toxic; others are known to be harmless. EPA lists most in the category “non-food inert ingredients.” See <http://www.epa.gov/opprd001/inerts/lists.html>.

377). Similar proposals to increase tolerance fees in EPA's annual budget requests from FY2001 to FY2004 were prohibited through appropriations legislation.

PRIA 1, enacted in January of 2004, specifically prohibited collection of *any* tolerance fees, and temporarily replaced (essentially prohibited) “other fee” authority through FY2008. Despite this prohibition, similar EPA proposals to authorize collection of additional tolerance fees and other pesticide fee revenue increases were included in the FY2005 through FY2012 budget requests. These proposals were not adopted by Congress for those fiscal years, and at times, prohibited. Language contained in the FY2005 supplemental appropriations for military funding enacted May 11, 2005 (P.L. 109-13 §6033), specifically banned EPA from going forward with rulemaking for collecting pesticide tolerance fees. PRIA 2 (P.L. 110-94), enacted October 9, 2007, continued the prohibition of other fee authority through FY2012.

The President's FY2009 through FY2012 budget requests included similar proposals to allow for the collection of pesticide tolerance fees, as well as proposals for a new fee schedule for registration service fees to increase the overall amount of fee revenue collected, and proposals to raise the current limit for the amount of maintenance fees that can be collected annually. The President's FY2013 budget request, submitted to Congress February 13, 2012, did not include similar proposals for supplemental fees. Instead the FY2013 request acknowledged the need for reauthorization of the current fees at increased levels to cover a greater portion of relevant program operating costs.²³

As discussed in more detail below, PRIA 3 extends fee collection authority under PRIA 1 and PRIA 2, with modifications, through FY2017, with phase-out authority at reduced levels for certain fees through FY2019, but also amends FIFRA by eliminating historical reregistration fee collection provisions established under the 1988 FIFRA amendments (P.L. 100-532).²⁴

The funding mechanism in PRIA—using fee revenue to support a particular program to ensure agency performance—has been used in other regulatory programs. For example, the Clean Air Act (CAA) Title V permitting program operates in part using fees collected from permit applicants and permittees, based on authority for EPA and state agencies to collect “... all reasonable (direct and indirect) costs required to develop and administer the permit program” (CAA §502(b)(3)(B)(1); see CRS Report RL33632, *Clean Air Permitting: Implementation and Issues*, by (name redacted)). As with PRIA, this provision was based in part on a desire to expedite agency actions (i.e., pesticide registration decisions and air permits). A complete comparative examination of similar policy options is beyond the scope of this report.

The following section summarizes the key provisions of PRIA 3 as enacted.

²³ See EPA's *FY2013 Justification of Appropriation Estimates for the Committee on Appropriations*, pp. 986-987 (pdf pp. 995-1457), and other related agency budget documents, available at <http://www.epa.gov/ocfo/budget>. Also see the multi-volume set of the President's *Budget of the United States Government, Fiscal Year 2013*, available at <http://www.whitehouse.gov/omb/budget/Overview/>.

²⁴ See footnote 6.

Key Provisions of the Pesticide Registration Improvement Extension Act of 2012 (PRIA 3) as Enacted

Enacted September 28, 2012, the Pesticide Registration Improvement Extension Act of 2012 (PRIA 3; P.L. 112-177, S. 3552)—effective October 1, 2012—amended and reauthorized provisions of the Pesticide Registration Improvement Renewal Act (PRIA 2; P.L. 110-94)²⁵ and the Pesticide Registration Improvement Act (PRIA 1; P.L. 108-199)²⁶ through FY2017. PRIA 1 had amended FIFRA and modified the framework for collecting fees to enhance and accelerate EPA review of pesticide registration and reregistration applications, thereby temporarily superseding the EPA May 1988 registration fee rule²⁷ and suspending tolerance fee authority under FFDCa through FY2008.

As enacted in January 2004, PRIA 1 seemed to effectively address many of the issues associated with previously proposed modifications of pesticide fees, and received the support of a large cross section of stakeholders, including organizations representing manufacturers and formulators, agricultural producers, and environmental and public health advocacy groups.²⁸ These stakeholders jointly favored the acceleration of EPA's decision process, the simplification of the fee authority, and the detailed schedule of activities determining the allocation of fees collected. The changes reflected in PRIA 2 generally continued to receive similar support from various groups.²⁹ PRIA 2 amended certain PRIA 1 provisions under FIFRA, most notably the adding 40 new registration application categories and clarifying existing categories, and modifying small business fee waiver options. PRIA 2 also extended the baseline appropriations protection for EPA's Office of Pesticide Programs (OPP); if congressional appropriations fell below the amount allocated to OPP for FY2002 by more than 3%, authority to assess fees would be suspended under PRIA 1 and PRIA 2. Noting several key advancements attributed to PRIA 1 and PRIA 2, in July 2012 an array of stakeholders urged reauthorization of PRIA with modifications to further enhance the pesticide registration processes.³⁰

²⁵ PRIA 2 was effective retroactively to October 1, 2007; relevant registration applications received between March 23, 2004, and September 30, 2007, were processed under PRIA 1 fees, decision review periods, and procedures.

²⁶ Enacted as Title V of Division G of the FY2004 Consolidated Appropriations Act.

²⁷ PRIA 1 (P.L. 108-199) removed the prohibition on "other fees" by amending FIFRA §4(i)(6), replacing §§33 and 34 (7 U.S.C. §136x and 136y) through 2010, and thus temporarily replacing registration fee authority codified in 1988 (Subpart U of C.F.R. Part 152).

²⁸ September 12, 2003, letter addressed to President George W. Bush, from a coalition of 30 organizations representing industry and public interests.

²⁹ See CropLife America's press release, October 11, 2007, at <http://www.croplifeamerica.org/viewer.asp?pageid=220>; see also Consumer Specialty Products (CSPA) and Natural Resources Defense Council (NRDC) joint press release, October 10, 2007, at <http://www.cspa.org/>.

³⁰ See July 5, 2012 letter to the Chairwoman and Ranking Member of the Senate Committee on Agriculture, Nutrition & Forestry, jointly from organizations including those representing pesticide manufacturers and formulators, agricultural producers, as well as, environmental and public health advocacy (e.g., farm worker protection) groups, [http://www.croplifeamerica.org/sites/default/files/node_documents/Tab%2015.0%20-%20Final%20PRIA%203%20Senate%20Ag%20letter%20\(3\)%20mcw.pdf](http://www.croplifeamerica.org/sites/default/files/node_documents/Tab%2015.0%20-%20Final%20PRIA%203%20Senate%20Ag%20letter%20(3)%20mcw.pdf). See also Council of Producers and Distributors of Agrotechnology (CPDA) Issue Brief at <http://www.cpda.com/cpda/files/ccLibraryFiles/Filename/000000000813/Issue%20Brief%202012%20-%20PRIA%20III.pdf>, and CPDA Quarterly July–September 2011 at <http://www.cpda.com/index.asp?bid=169&&issue=37&formid=100>.

PRIA 3 further revised the schedule of registration application categories (including the addition of new categories and subcategories of existing categories), clarified existing categories, and revised associated fee amounts and review/process decision completion deadlines. The schedule of fee categories and decision timelines was also codified in law. Previous fee schedules for PRIA 1 and PRIA 2 were as defined in the *Congressional Record*.³¹ PRIA 3 also added authority for the EPA Administrator to provide a percentage reduction of maintenance fees for certain small business entities, and added new provisions for the enhancement of pesticide decision information tracking systems and for conducting preliminary screening of the content of a registration applications. Unlike PRIA 1 and PRIA 2, which had temporarily suspended the one-time reregistration fee provisions established under the 1988 FIFRA amendments, PRIA 3 amended FIFRA by eliminating these provisions.³² PRIA 3 also extended the baseline budget protection for the EPA's OPP; however, the minimum baseline for annual congressional appropriations is set at the amount allocated to OPP for FY2012, compared to no less than 3% of the FY2002 level as had been previously defined in PRIA 1 and PRIA 2.

In addition, PRIA 3

- extended authority to collect “maintenance fees” through FY2017;
- renewed authority for EPA to collect “registration service fees” through FY2017, and on a phased out schedule at reduced levels in FY2018 and FY2019.(The phased out schedule applies only to registration fees not maintenance fees);
- continued the authority for use of funds in the Reregistration and Expedited Processing Fund³³ to include use for “registration review” as stipulated initially under PRIA 2; pesticide registrations are to be reviewed every 15 years, as established under PRIA 2;
- continued to require EPA to identify reforms to the pesticide registration process to substantially reduce the decision review periods, and to provide annual reports summarizing activities and process improvements; and
- added a new requirement for EPA to provide a report analyzing the impact of maintenance fees on small businesses to the House Committee on Agriculture and the Senate Committee in Agriculture, Nutrition, and Forestry by October 1, 2016.

The key PRIA 3 provisions and changes are summarized in more detail in the following sections.

³¹ Under PRIA 1 (P.L. 108-199, Title V of Division G, Section 501(f)(2)), the registration fees “schedule” was as introduced per a Member’s statement in the September 17, 2003, *Congressional Record* (S11631 through S11633). EPA published the initial schedule of covered applications and registration service fees on March 17, 2004 (69 *Federal Register* 12771). In June 2005, EPA published a revised fee schedule (70 *Federal Register* 32327) based on a 5% increase in pesticide registration service fees, as authorized by PRIA 1, for applications received on or after October 1, 2005. Under PRIA 2 (P.L. 110-94, Section 5(b)(1)(B)), the EPA Administrator was directed to publish a detailed schedule of covered pesticide applications and corresponding registration service fees, as per a Member’s statement in the July 31, 2007, *Congressional Record* (S10409 through S10411).

³² See footnote 6.

³³ Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1988 (P.L. 100-532), enacted October 25, 1988, and retained in Section 501(b) P.L. 104-170, the Food Quality Protection Act of 1996, enacted August 3, 1996; 7 U.S.C. §136a-1(k)(1).

Reauthorization of Pesticide Registrant Maintenance Fees

Authority to assess and collect maintenance fees under PRIA 2 was set to expire at the end of FY2012.³⁴ PRIA 3 reauthorized collection for FY2013 through FY2017 and revised the amounts of the fees under the formulae established initially under the 1998 amendments to FIFRA.³⁵ Maintenance fees continue to be assessed on existing pesticide registrations to fund registration reviews and tolerance reassessment, and other activities discussed below. As initially authorized in the 1988 amendments, the maintenance fee requirement applies to all registrations granted under Section 3 of FIFRA, as well as registrations granted to meet special local needs under Section 24(c) of FIFRA. Nonpayment of maintenance fees can result in the cancellation of associated pesticide registrations.³⁶ In 2012, EPA canceled 198 registrations for nonpayment of 2012 maintenance fees.³⁷ In September 2013, EPA notified registrants of its intent to cancel 220 registrations for nonpayment of 2013 maintenance fees.³⁸

The annual maximum maintenance fees per registrant, and in aggregate, remain constant for each of the fiscal years FY2013 through FY2017 under PRIA 3. The annual statutory aggregate limit was increased from \$22.0 million in PRIA 2 to \$27.8 million per fiscal year in PRIA 3.³⁹ PRIA 3 amended FIFRA, increasing the annual maximum fee for registrants with *less than 50* pesticide registrations to \$115,500 (\$71,000 in PRIA 2) for each of the fiscal years FY2013 through FY2017; or \$70,600 (\$50,000 in PRIA 2) if a registrant is a small business (as redefined in PRIA 3). The annual maximum each fiscal year for FY2013 through FY2017 for registrants with *more than 50* registrations is changed to \$184,800 (\$123,000 in PRIA 2); \$122,100 (\$86,000 in PRIA 2) if a registrant is a small business as defined. An exemption⁴⁰ continues to be available for public health pesticides.⁴¹

³⁴ 7 U.S.C. §136a-1(i)(5)(H).

³⁵ Under the provisions of the 1988 amendments to FIFRA (P.L. 100-532) as amended, EPA calculates and adjusts the amount of annual maintenance fees collected per registrant, based on the number of registrants and the number of pesticide product registrations, which are determined by the agency at the beginning of each fiscal year.

³⁶ Section 4(i)(5)(G) of FIFRA (7 U.S.C. §136a-1(i)(5)(H) as amended by P.L. 112-177).

³⁷ U.S. EPA, “Cancellation of Pesticides for Non-Payment of Year 2012 Registration Maintenance Fees,” *77 Federal Register* 44229-44231, July 27, 2012. EPA originally identified 204 registrations subject to cancellation for nonpayment in the July 27, 2012, FR Notice; six entries inadvertently included were removed in a subsequent correction Notice (U.S. EPA, “Cancellation of Pesticides for Non-Payment of Year 2012 Registration Maintenance Fees; Correction,” *77 Federal Register* 63827, October 17, 2012).

³⁸ U.S. EPA, “Cancellation of Pesticides for Non-Payment of Year 2013 Registration Maintenance Fees,” *78 Federal Register* 57379-57383, September 18, 2013.

³⁹ The annual aggregate authorized under PRIA 1 (P.L. 108-199, Division G, Title V, §501(c)(1)(D) and (E)) increased from \$21.5 million for FY2003 to \$26 million for FY2004 and \$27 million for FY2005 and FY2006; it declined to \$21 million for FY2007 and \$15 million for FY2008.

⁴⁰ 7 U.S.C. §136a-1(i)(5)(I) as amended by P.L. 112-177.

⁴¹ 7 U.S.C. §136(nn), the term “public health pesticide” means any minor use pesticide product registered for use and used predominantly in public health programs for vector control or for other recognized health protection uses, including the prevention or mitigation of viruses, bacteria, or other microorganisms (other than viruses, bacteria, or other microorganisms on or in living man or other living animal) that pose a threat to public health. The term “vector” means any organism capable of transmitting the causative agent of human disease or capable of producing human discomfort or injury, including mosquitoes, flies, fleas, cockroaches, or other insects and ticks, mites, or rats.

New Fee Reductions for Certain Small Businesses

PRIA 3 inserts a new subparagraph entitled “Fee Reduction for Certain Small Businesses,” authorizing the EPA Administrator to waive 25% of the maintenance fees for the first registration of a qualified small business.⁴² Qualified small business entities as it applies specifically to the collection of maintenance fees under this subparagraph are defined as having

- 500 employees or fewer,
- an average annual gross revenue from all sources that does not exceed \$10.0 million during the three-year period prior to the most recent maintenance fee billing cycle, and
- no more than five pesticide registrations eligible for maintenance fees.

PRIA 3 stipulates that a waiver is not to be granted if the Administrator determines that an entity has formed or manipulated primarily for purposes of qualifying for the waiver.

Reregistration and Expedited Processing Fund and Apportionment

Under PRIA 3, collected maintenance fee revenues will continue to be deposited in the “Reregistration and Expedited Processing Fund” in the U.S. Treasury (initially established in 1988)⁴³ and continue to be used in conjunction with appropriated funds to offset the costs of reevaluating registered pesticides (fees for reregistration and registration review authorized initially under PRIA 2) and for expedited processing of applications within specified statutory time frames to ensure that products meet current safety standards. PRIA 3 added a provision that revenue derived from these fees also be used to “... enhance information systems capabilities to improve tracking of pesticide registration decisions.”⁴⁴

Reregistration and Registration Review

The October 1, 2022, deadline for EPA to complete registration review decisions⁴⁵ for all pesticides registered as of October 1, 2007, established under PRIA 2 is unchanged under PRIA 3. PRIA 2 amended FIFRA and expanded the authorization of the use of moneys collected and deposited in the Reregistration and Expedited Process Fund⁴⁶ to include offsetting costs of “registration reviews under section 3(g).” Prior to this amendment, money in the fund was only to be used to offset the cost of reregistration⁴⁷ and for the expedited review of inert ingredients. EPA’s final rule for the registration review program, as published in the August 9, 2006, *Federal Register*, replaced the agency’s pesticide reregistration and tolerance reassessment programs as

⁴² Section 2(a)(1)(A)(vi) of P.L. 112-177 amends FIFRA 136a-1(a)(5) by inserting new subparagraph (F) after existing subparagraph (E), and redesignating subparagraphs existing (F) through (H) as (G) through (I), respectively.

⁴³ See footnote 33.

⁴⁴ Amends 7 U.S.C. §136a-1(k)(2)(A).

⁴⁵ The Food Quality Protection Act (FQPA) of 1996 amended FIFRA to add Section 3(g), “Registration Review,” with the goal of completing review an existing pesticide’s registration every 15 years.

⁴⁶ 7 U.S.C. §136a-1(k)(1).

⁴⁷ The reevaluation of pesticides registered prior to 1984 as defined by the 1988 amendments to FIFRA (P.L. 100-532).

they approached completion.⁴⁸ The agency began implementing the registration review program at the start of FY2007 (see “Registration Review” later in this report).⁴⁹

EPA completed the reregistration of active ingredients (a.i.’s) that require (food) tolerances or exemptions from tolerances. Reregistration of a.i.’s was required to be completed by August 3, 2006, under FQPA (P.L. 104-170, Title IV, §405). PRIA 1 had extended the statutory deadline for completing reregistrations for active ingredients that do not require tolerances to October 3, 2008.⁵⁰ EPA completed its review at the end of September 2008 (see “Reregistration/Tolerance Reassessment Activities” later in this report). Following the completion of a reregistration decision for a pesticide active ingredient, EPA must reregister the individual end-use products that contain a pesticide ingredient that has been declared eligible for reregistration. EPA has initiated this process, and expects to complete product reregistration for conventional pesticides in 2014.⁵¹

Review of Inert Ingredients and Expedited Processing of “Similar/Like” Product Applications⁵²

PRIA 3 extended the authority to collect maintenance fees so as to explicitly designate the use of a portion between 1/9th and 1/8th (1/8th and 1/7th through FY2012 in PRIA 2) of the annual aggregate maintenance fees collected for each fiscal year FY2013 through FY2017⁵³ for

- the review and evaluation of inert⁵⁴ ingredients,
- the expedited processing of proposed initial or amended registration of an end-use pesticide product that is “similar” or identical to existing registered products,
- proposed label amendments that require no scientific review of data, and
- proposed registrations of public health pesticide uses.

The 1996 amendments to FIFRA (FQPA) placed greater emphasis on inert ingredients and clarified that these chemicals are covered by the definition of a pesticide chemical under FFDC (§201(q)(1)), but not FIFRA. Therefore, EPA must make a determination regarding the establishment of tolerances for inert ingredients. All inert ingredients in

⁴⁸ U.S. EPA, “Pesticides; Procedural Regulations for Registration Review,” 71 *Federal Register* 45720, August 9, 2006.

⁴⁹ For a more detailed overview of EPA’s registration review process, see http://www.epa.gov/oppsrrd1/registration_review/reg_review_process.htm.

⁵⁰ PRIA 1 had extended the statutory deadline to October 3, 2008, for completing reregistrations for active ingredients registered prior to 1988, that do not require tolerances; reregistration of active ingredients that require (food) tolerances or exemptions from tolerances were required to be completed by August 3, 2006, as mandated under 1996 amendments to FIFRA and FFDC (the Food Quality Protection Act (FQPA); P.L. 104-170, Title IV, §405).

⁵¹ See “Maintenance Fees—Reevaluation Programs,” in EPA’s *Implementing the Pesticide Registration Improvement Act - Fiscal Year 2012*, March 2013, p. 1, http://www.epa.gov/pesticides/fees/2012annual_report/accomp-reevaluation-fy2012.pdf. See also U.S. EPA, “Pesticide Reregistration Performance Measures and Goals; Annual Progress Report; Fiscal Year 2012,” January 21, 2013, posted on EPA’s Product Reregistration: Progress and Status Reports website at <http://www.epa.gov/pesticides/reregistration/reports.htm>.

⁵² Referred to as “Me-too” pesticides; see FIFRA §4(k)(3)(i), “... the initial or amended registration of an end-use pesticide that, if registered as proposed, would be identical or substantially similar in composition and labeling to a currently-registered pesticide.”

⁵³ 7 U.S.C. §136a-1(k)(3) as amended by P.L. 112-177.

⁵⁴ See footnote 22, which defines the term “inert.”

pesticide products, including those in an inert mixture, must be approved for use by EPA. Under FFDCFA, inert ingredients applied to food require a tolerance or tolerance exemption. Generally, only the total percentage of inert ingredients is required to be on the pesticide product label, with some exceptions. Federal law does not require that inert ingredients be identified by name or percentage on the pesticide product labels, even though products may contain more than one inert ingredient.⁵⁵ PRIA 3 added 10 new inert categories to the registration fees schedule to support review of food and nonfood use inert ingredient submissions (see “Registration Service Fees” below).

New Enhanced Information Tracking Provision

PRIA 3 amended FIFRA by adding authorization for the EPA Administrator to use up to \$800,000 of amounts available in the Reregistration and Expedited Processing Fund for activities to improve information systems capabilities for OPP to enhance the tracking of registration decisions.⁵⁶ These activities include

- electronic tracking of registration submissions and the status of conditional registrations,
- enhancing the database for information regarding endangered species,
- implementing the capability to electronically review pesticide labels submitted with applications, and
- acquiring and implementing the capability to electronically assess and evaluate confidential statements of formulae submitted with applications.

Registration Service Fees

PRIA 1 established “registration service” fees that apply only to new pesticide registration applications (submitted on or after the effective date of PRIA 1), with transitional allowances for pending applications. PRIA 2 extended this authority in a new FIFRA Section 33 (7 U.S.C. §136w-8) through FY2012, and PRIA 3 reauthorizes this authority for FY2013 through FY2017. Under PRIA 3, authority to collect registration service fees is scheduled to expire at the end of FY2017, with phase-out authority at reduced levels through FY2019—reduced by 40% during FY2018 and 70% during FY2019.⁵⁷

The registration service fees cover only a portion of the cost for review and decision making associated with a registration application, including associated tolerance determinations. The remainder of the costs of these activities is supported by appropriations. As defined initially under PRIA 1, these costs include EPA staff, contractors, and advisory committees engaged in relevant activities for pesticide applications, associated tolerances, and corresponding risk and benefits information and assessment.

⁵⁵ EPA “Inert Ingredient Frequently Asked Questions,” <http://www.epa.gov/opprd001/inerts/faqs.pdf>.

⁵⁶ Section 2(a)(4)(C) of P.L. 112-177 amends 7 U.S.C. §136a-1(k) by inserting new paragraph (4), “Enhancements of Information Technology Systems for Improvement in Review of Pesticide Applications,” and redesignating paragraphs (4) and (5) as new (5) and (6), respectively.

⁵⁷ 7 U.S.C. §136w-8(m)(2).

Schedule of Fees and Decision Timelines

The category or type of application, the amount of the pesticide registration service fee, and the corresponding decision review time frame in which the agency is to make a decision under PRIA 3 are prescribed in the act.⁵⁸ The amount of the fees varies depending on the specific “service” required. Under PRIA 1 and PRIA 2, the EPA Administrator was directed to publish a detailed schedule of covered pesticide applications and corresponding registration service fees, as reported in the *Congressional Record*.⁵⁹ PRIA 3 required EPA to make the fee schedule “publicly available.” The PRIA 3 fee schedule tables are presented on EPA’s website.⁶⁰ PRIA 1 and PRIA 2 required EPA to publish schedules in the *Federal Register*.⁶¹

PRIA 3 increased the number of actions covered by registration service fees and modified the payment process. PRIA 3 includes 189 categories (compared to 140 in PRIA 2 and 90 in PRIA 1) spread across 3 EPA Office of Pesticide Program divisions—Registration Division (63), Antimicrobial Division (39), and Biopesticides and Pollution Prevention Division (69)—and 10 newly included inert categories and 8 miscellaneous categories. The categories reflect revisions to existing categories (including elimination and consolidation), the addition of new categories, and corresponding decision review timelines. In some cases, new categories are similar to previous subsets of broader categories. Also included were changes to decision-making time frames to allow for adjustments to labels after issuance without requiring resubmission, authorization for a screening period to ensure completeness of data submissions, and authorization to use collected registration service fee revenues for electronic tracking of certain review processes and data submissions.

The fee schedule includes a number of detailed footnotes that include specific requirements for elements of registrant submissions and EPA’s handling of these submissions. At a workshop held April 10, 2013, EPA emphasized the significance of these footnotes.⁶²

EPA provides information and related guidance regarding the revised registration service fee schedule on its PRIA 3 website.⁶³ The website includes the PRIA 3 “fee determination decision tree” to assist applicants in identifying the category of their application and the amount of the required fee prior to submission of their application for a pesticide registration or certain tolerance action.⁶⁴ Previous PRIA 1 and PRIA 2 fee schedules are also available on the website.

⁵⁸ Section 2(b)(1)(A) of P.L. 112-177 amends FIFRA by striking existing paragraph (3) under 7 U.S.C. §136w-8(b) and inserting new paragraph (3), “Schedule of Covered Applications and Registration Service Fees.”

⁵⁹ See footnote 31.

⁶⁰ See U.S. EPA, “Pesticide Registration Improvement Extension Act (PRIA 3) Tables—FY 2013 Fee Schedule for Registration Applications,” at <http://www.epa.gov/pesticides/fees/tool/category-table.html>.

⁶¹ EPA published the pesticide service fee schedule under PRIA 2 on October 30, 2007, U.S. EPA, “Pesticides; Revised Fee Schedule for Registration Applications,” 72 *Federal Register* 61466-61477, October 30, 2007. The PRIA 1 fee schedule was initially published March 17, 2004, U.S. EPA, “Pesticides; Fees and Decision Times for Registration Applications,” 69 *Federal Register* 12772-12780, March 14, 2004. Previous service fee schedules are available at U.S. EPA, “PRIA 3 of 2012—Previous Fee Schedules,” at <http://www.epa.gov/pesticides/fees/prev-fee-schedule.html>.

⁶² “EPA Workshop on New Provisions in PRIA 3,” April 10, 2013, http://www.epa.gov/oppfead1/cb/csb_page/updates/2013/2013pria-workshop.html.

⁶³ See U.S. EPA, Pesticide Registration Improvement Extension Act (PRIA 3) of 2012, at <http://www.epa.gov/pesticides/fees/>.

⁶⁴ See U.S. EPA, “Pesticide Registration Improvement Extension Act (PRIA 3) Fee Determination Decision Tree,” at <http://www.epa.gov/pesticides/fees/tool/index.htm>.

PRIA 3 continued authorization for mandatory adjustments of the registration service fees—a 5% increase from FY2012 fees for registration applications received on or after October 1, 2013, through September 30, 2015, and an additional 5% increase of the service fee in effect as of September 30, 2015, for those applications received on or after October 1, 2015.⁶⁵

Registration Service Fee Waivers and Reductions⁶⁶

PRIA 3 retains the existing authorizations as modified by PRIA 2 for exemptions or reductions of registration service fees for minor uses⁶⁷ and reductions for small businesses⁶⁸ under Section 33(b)(7)F of FIFRA, and for partial service fee (25%) refunds when applications are withdrawn during the first 60 days or at the Administrator’s discretion after 60 days.⁶⁹ A qualified small business⁷⁰ is eligible for a partial waiver of 50% of the service fees and, in some cases, 75% of the registration service fee available under the new provisions. PRIA 2 had amended the PRIA 1 small business waiver provisions such that a 100% waiver was no longer authorized. Federal government or state government agencies are also exempt from registration service fees.⁷¹

According to its FY2012 PRIA Implementation Report,⁷² between FY2008 and FY2012 EPA granted fee waivers or exemptions for more than 95% of the applications. Annually, between 276 and 319 waivers were granted. Approximately 65% of the waivers granted were 75% “ultra-small business waivers”; approximately 22% were 50% small business waivers. Under PRIA 1 during

⁶⁵ 7 U.S.C. §136w-8(b)(6). Under PRIA 3, fees were increased 5% effective October 1, 2013, 78 *Federal Register* 59347-59359, September 26, 2013. Under PRIA 2 (P.L. 110-94, §(b)(6)), fees were increased 5% effective October 1, 2008, 73 *Federal Register* 45438-45450, August 5, 2008; effective October 1, 2010, fees were increased 5% from those published in the August 5, 2008, *Federal Register*, 75 *Federal Register* 48672-48683, August 11, 2010. In June 2005, EPA published a revised fee schedule (70 *Federal Register* 32327) based on a 5% increase in pesticide registration service fees, as authorized by PRIA (P.L. 108-199, Title V of Division G, §33(b)(6)(B)), for applications received on or after October 1, 2005. (U.S. EPA, “PRIA 3 of 2012—Previous Fee Schedules,” at <http://www.epa.gov/pesticides/fees/prev-fee-schedule.html>).

⁶⁶ EPA guidance for registration service fee waivers and reductions, including recent updates, is available at <http://www.epa.gov/pesticides/fees/questions/waivers.htm>; information regarding the fee reduction formula is available at http://www.epa.gov/pesticides/fees/fee_reduction.htm.

⁶⁷ 7 U.S.C. §136w-8(b)(7)(D) and (E). The term “minor use” means the use of a pesticide on an animal, on a commercial agricultural crop or site, or for the protection of public health where—(1) the total United States acreage for the crop is less than 300,000 acres, as determined by the Secretary of Agriculture; or (2) the Administrator, in consultation with the Secretary of Agriculture, determines that, based on information provided by an applicant for registration or a registrant, the use does not provide sufficient economic incentive to support the initial registration or continuing registration of a pesticide for such use and—there are insufficient efficacious alternative registered pesticides available for the use; the alternatives to the pesticide use pose greater risks to the environment or human health; the minor use pesticide plays or will play a significant part in managing pest resistance; or the minor use pesticide plays or will play a significant part in an integrated pest management program (7 U.S.C. §136(l)).

⁶⁸ 7 U.S.C. §136w-8(b)(7)(F).

⁶⁹ 7 U.S.C. §136w-8(b)(8).

⁷⁰ Under PRIA 3, at the time of application, a small business entity shall be eligible for a 50% waiver if it has 500 or fewer employees and annual global gross revenues that do not exceed \$60.0 million, as defined for maintenance fees in Section 7 U.S.C. §136a-1(1)(E)(ii) as amended; an entity with 500 or fewer employees and annual global gross revenues that do not exceed \$10.0 million at the time of application shall be eligible for a 75% waiver (not included for maintenance fee waivers).

⁷¹ 7 U.S.C. §136w-8(b)(7)(G).

⁷² U.S. EPA, *Implementing the Pesticide Registration Improvement Act - Fiscal Year 2012, Pesticide Registration Service Fees - Fees Collected and Expended*, p. 3 of 4, March 2013, http://www.epa.gov/pesticides/fees/2012annual_report/fees-collected-fy2012.pdf.

FY2008, EPA granted 293 of 303 waiver applications reviewed that had been received prior to the PRIA 2 effective date which no longer authorized 100% waivers; 9 for 100% small business waivers, 176 for 75% small business waivers, and 64 for 50% waivers. During FY2007, 258 of the total 374 waivers granted were 100% small business waivers.⁷³ The total of \$7.7 million in fees waived in FY2012 was \$2.2 million less than \$9.9 million in fees waived or exempted in FY2011.⁷⁴

Pesticide Registration Fund

Like PRIA 2, PRIA 3 retained the Pesticide Registration Fund (“the fund”) in the U.S. Treasury, as mandated initially under PRIA 1, to be made available to EPA for purposes defined in the act, without fiscal year limitation.⁷⁵ PRIA 3 reauthorized a requirement that approximately 1/17th of the amount in the fund, but not less than \$1 million of the total amount in the fund, be used to enhance scientific and regulatory activities for worker protection for FY2013 through FY2017.⁷⁶ Additionally, PRIA 3 authorized \$500,000 for each of the years FY2013 through FY2017 to be used for “Partnership Grants,” for projects supporting pesticide risk reduction. This authorization was introduced in PRIA 2, at \$750,000 for FY2008 and FY2009, and \$500,000 for each of the years FY2010 through FY2012. Also as authorized in PRIA 2, PRIA 3 continues authorization of another \$500,000 for each of the years FY2013 through FY2017 is to be used to carry out a “pesticide safety education program.”

Conditional Fee Authority: Annual Appropriations

PRIA 3 revised and extended the prohibition on authorizing registration service fees unless the amount of congressional appropriations for specified functions conducted by the EPA Office of Pesticide Programs (OPP) (excluding any fees appropriated) remains no less than the corresponding FY2012 appropriation.⁷⁷ PRIA 1 and PRIA 2 had stipulated that appropriated funds for specific EPA OPP functions be maintained at no less than 3% below their FY2002 levels as a condition for authorizing fee collections. PRIA 3 also continued to stipulate that the authorization to collect and obligate fees must be provided in advance in appropriations acts.⁷⁸ These requirements have been met in EPA annual appropriations for FY2004 through FY2012.⁷⁹ For FY2013, the Consolidated and Further Continuing Appropriations Act, 2013 (P.L. 113-6, Division F, Title IV §1407), enacted March 26, 2013, provided the authority for the collection of registration service fees but in effect made an exception for FY2013 with regard to the PRIA 3 conditional provision that appropriated funds remain no less than FY2012 levels.⁸⁰ Consequently,

⁷³ See previous fiscal years PRIA Implementation annual reports at <http://www.epa.gov/pesticides/fees/>.

⁷⁴ For a comparison of the amount of fee waivers and exemptions by fiscal year, FY2004-FY2012, see footnote 72, p. 4 of 4.

⁷⁵ 7 U.S.C. §136w-8(c).

⁷⁶ 7 U.S.C. §136w-8(c)(3)(B)(i), the same as PRIA 2. PRIA 1 had required a range of \$750,000 to \$1 million for worker protection activities.

⁷⁷ Section 2(b)(3)(A) through (C) amends 7 U.S.C. §136w-8(d)(2) and strikes paragraph (4).

⁷⁸ FIFRA §33(c)(4) Collections and Appropriations (7 U.S.C. §136w-8(c)(4)(A)).

⁷⁹ FY2004 (P.L. 108-199); FY2005 (P.L. 108-447); FY2006 (P.L. 109-54); FY2007 (P.L. 110-5); FY2008 (P.L. 110-161); FY2009 (P.L. 111-8); FY2010 (P.L. 111-88); FY2011 (P.L. 112-10, for EPA, §1101(a)(4) and §1104 in Title I of Division B in P.L. 112-10 provided continued authorization for the collection of pesticide fees during FY2011 pursuant to FY2010 P.L. 111-88, Division A); and FY2012 (P.L. 112-74).

⁸⁰ Section 1407, Title IV of Division F of P.L. 113-6 states, “Notwithstanding subsection (d)(2) of section 33 of the (continued...)”

the authority to collect and obligate registration service fees in FY2013 is not dependent on the level of funds appropriated for pesticide program activities as specified in PRIA 3.

New Initial Content and Preliminary Technical Screenings Provisions

Section 2(b)(5)(C) of P.L. 112-177 amends FIFRA (7 U.S.C. §136w-8(f)(4)(B)) by replacing the former heading “Completeness of Application” with “Initial Content and Preliminary Technical Screening.” This new subsection includes modifications to initial content screening and several new requirements and time frames for conducting “preliminary technical screening” of registration applications, and notifying registrant applicants of potential deficiencies of data and information. The provision allows for applicants to correct deficiencies to avoid potential longer-term delays in the review process.

Prohibitions on “Tolerance Fees” and Other Pesticide Fees

PRIA 3 extended the prohibition on EPA collection of “any” tolerance fees under the authority of Section 408(m)(l) of FFDCA through FY2017.⁸¹ Authority for collecting tolerance fees dates back as far as the 1954 amendments to FFDCA (P.L. 518; July 22, 1954), which, as passed, required the collection of fees “sufficient to provide adequate service” for establishing maximum residue levels (tolerances) for pesticides on food (see more detailed discussion below under “A Historical Overview of Pesticide Fee Authorities”). Under PRIA 3, fee revenues to support tolerance assessments are allocated from maintenance fees (for tolerance reassessments) and registration service fees (for new and amended tolerances) through FY2017. Registration service fees are authorized to be phased out at reduced levels through FY2019.

Prohibiting collections of tolerance fees under PRIA 3 expires at the end of FY2017. PRIA 3 continued to prohibit “other fees” by amending FIFRA Section 4(i)(6)⁸² and by replacing FY2014 with FY2019. The EPA Administrator is prohibited from levying any other fees for the registration of a pesticide other than as stipulated under PRIA. Thus, the collection of fees under the registration fee authority codified in 1988 (Subpart U of C.F.R. Part 152) is temporarily replaced and essentially prohibited by this provision.

Elimination of 1988 Reregistration Fees

Section 2(a)(1)(C) of PRIA 3 amended 7 U.S.C. §136a-1(i) by striking paragraphs (1), (2), (3), (4) and (7), which were provided for one-time reregistration fees established under the 1988 amendments to FIFRA (P.L. 100-532), for food or feed and nonfood or nonfeed pesticide active ingredients. Accordingly, the previous paragraph (5), “Maintenance fee” is redesignated as the new paragraph (1). By FY1995, all authorized one-time reregistration fees had been collected, resulting in an estimated combined total of \$31.64 million (see “1988 One-Time Reregistration

(...continued)

Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136w–8), the Administrator of the Environmental Protection Agency may assess pesticide registration service fees under such section for fiscal year 2013.”

⁸¹ 21 U.S.C. §346a(m)(3). PRIA 2 prohibited collection of tolerance fees through FY2012. PRIA 1 prohibited collection of tolerance fees through FY2008; EPA published a notice suspending the collection of tolerance fees (U.S. EPA, “Pesticide Tolerance Fees; Suspension of Collection,” 69 *Federal Register* 12542, March 17, 2004).

⁸² 7 U.S.C. §136a-1(i)(6).

and Registration Fees” later in this report). Under PRIA 1 and PRIA 2, collections of these fees initially authorized under the 1998 amendments had been temporarily suspended, but these provisions were not removed from the law as PRIA 3 does.

Reporting Requirements Under PRIA

PRIA 3 extended the requirement that EPA publish an annual report describing relevant actions taken during each fiscal year, through March 1, 2017. PRIA 3 also retained specific elements to be included in the report, with some technical modifications and examples. For example, PRIA 3 added a requirement to report the number of extensions of decision time review periods agreed to under 7 U.S.C. §136w-8(f)(5) and a description of why the decision was not made during the established time review period. Also added were requirements for reporting progress of implementing enhancements for tracking registration submission and other activities, and rejection rates under the amended preliminary technical screening provisions.

Examples of these reporting elements retained include progress made in EPA carrying out its obligations under the act; a description of the staffing and resources related to the costs associated with the review and decision making pertaining to applications; and the progress in meeting the goals for registration review and reregistration timeline requirements. PRIA 3 and PRIA 2 retained a key provision of PRIA 1 that in conjunction with the increased fee revenues EPA identify reforms⁸³ to the agency’s pesticide registration process with the intent of further reducing the existing decision review period.

EPA released an initial report of PRIA activities during FY2004 in March 2005, and subsequent reports of PRIA activities for each fiscal year through March 2012. The agency released its most recent report, *Implementing the Pesticide Registration Improvement Act - Fiscal Year 2012*, in March 2013.⁸⁴ These reports present EPA’s summary of improvements and accomplishments for each of the fiscal years. (See discussion under “Pesticide Registration and Reregistration Activities Since the Enactment of PRIA” later in this report.)

New Reporting Requirement: Impacts on Small Business

PRIA 3 added a requirement that, not later than October 1, 2016, the EPA Administrator submit a report analyzing the impact of maintenance fees on small businesses to the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition, and Forestry. For this reporting requirement, small businesses are defined as having 10 or fewer employees and annual global gross revenues less than \$2.0 million. The report is to include the number of small businesses, as defined, paying maintenance fees, and the number of registrations each entity holds.

⁸³ Sections 33(e), Reforms to Reduce Decision Time Periods, and (f), Decision Review Time Periods.

⁸⁴ Each of the annual reports for FY2004 through FY2012 is available at <http://www.epa.gov/pesticides/fees/>.

A Historical Overview of Pesticide Fee Authorities

Various changes and proposed changes to pesticide fee authority led up to the 2004 enactment of PRIA 1. Fees collected by EPA over time to support the pesticide program have included tolerance fees, registration fees, reregistration fees, and maintenance fees. Between 1996 and 2004, EPA collected tolerance fees, primarily for the establishment of pesticide residue limits (tolerances) on food, and maintenance fees, primarily for reregistration reviews and reassessment of existing tolerances.

FIFRA and FFDCA Pesticide Fee Collection Authority

Authority for the collection of pesticide fees dates back as far as the 1954 amendments to FFDCA.⁸⁵ At the time, §408(o)⁸⁶ required the collection of fees to cover the costs of establishing maximum residue levels (“tolerances”) for pesticides on food. Until 1988, tolerance fees were the only pesticide fees collected by EPA. The 1988 amendments to FIFRA (P.L. 100-532) extensively expanded pesticide fee authority. The amendments included a nine-year schedule to accelerate the process of reregistration. To help defray the costs of the accelerated process, EPA was authorized to collect a one-time reregistration fee from producers for their pesticide active ingredients registered prior to 1984, and annual maintenance fees from pesticide registrants through FY1997, for each registered pesticide product. The amounts of fees per registrant were tiered, depending on the number of registrations per registrant, as determined by EPA each fiscal year. Despite the availability of the fee revenues, some stakeholders and some Members of Congress continued to express concerns with the pace of EPA’s reregistration review efforts.

Congress amended FIFRA in 1996 (FQPA; P.L. 104-70), extending EPA’s authority to collect the annual maintenance fees through FY2001. FQPA also expanded the authority under FFDCA to include the use of fees for purposes of reevaluating “old” tolerances (tolerance reassessment). FQPA requires EPA to ensure “reasonable certainty” of “no harm,” to analyze aggregate and cumulative effects of pesticides, and to apply safety factors for children. The new requirements introduced a host of responsibilities for EPA, particularly when establishing new tolerances and reassessing old tolerances.⁸⁷ After its expiration September 30, 2001, the statutory authority for maintenance fees was extended in annual EPA appropriations bills prior to the enactment of the PRIA 1 provisions on January 23, 2004.⁸⁸

Other Pesticide Fee Authority

In May 1988, prior to the 1988 FIFRA amendments, EPA promulgated a final pesticide registration fee regulation,⁸⁹ citing the authority of the Independent Offices Appropriation Act

⁸⁵ Pesticide Residue Amendment of 1954, P.L. 518, 21 U.S.C. §346(a).

⁸⁶ This authority currently resides in FFDCA §408(m) (1996 FQPA).

⁸⁷ See CRS Report 96-759, *Pesticide Legislation: Food Quality Protection Act of 1996 (P.L. 104-170)*, by (name red acted).

⁸⁸ The FY2001 statutory aggregate level of \$14 million established by the 1988 FIFRA amendments was increased to \$17 million in FY2002 (P.L. 107-73) and to \$21.5 million in FY2003 (P.L. 108-10). The final Continuing Resolution for FY2004 (P.L. 108-135) extended the maintenance fees as authorized in FY2003 (see H.J.Res. 69, §118).

⁸⁹ 40 C.F.R. 152(u) and 40 C.F.R. 172.

(IOAA) of 1952 (31 U.S.C. §9701). Intended to defray increasing administrative costs of pesticide registration reviews, the final rule included a prescribed schedule of fees to be submitted with each application for registration, amended registration, or experimental use permit. Registration fees were to be deposited in the U.S. Treasury and not directly available to EPA. The regulation was challenged in court by the Chemical Specialties Manufacturers' Association,⁹⁰ and the collection of registration fees under this authority was temporarily suspended through FY1997 by the 1988 amendments to FIFRA (§4(i)(6)). Collecting registration fees under this authority continued to be prohibited through FY2001 by the 1996 FIFRA/FFDCA amendments (FQPA) and, subsequently, by annual appropriations bills from FY2002 through the FY2004 Continuing Resolution.⁹¹

Proposed Pesticide Fee Authority Modifications

In June 1999, EPA proposed a rule restructuring tolerance fees⁹² in an effort to cover the cost of establishing initial tolerances and tolerance reassessments, including tolerance activities for “other” ingredients (namely, inert ingredients)⁹³. EPA proposed as much as a tenfold increase and the retroactive payment of fees for tolerance petitions submitted and reassessments initiated after FQPA was enacted in August 1996. Industry groups generally opposed the proposal. According to comments submitted to EPA, several industry groups disagreed and were concerned with, among other issues, EPA's interpretation that the statute provided authority to collect 100% of the cost of tolerance reassessment using fees. These groups also generally opposed EPA's justification for the tenfold increase in fees, the imposition of fees retroactively, and the potential effects of imposing fees for inert ingredients.⁹⁴

The 106th Congress prohibited promulgation of the tolerance fee rule in EPA's FY2000 appropriations (P.L. 106-74, §432). The 107th Congress considered approaches to revise the overall fees structure for pesticide programs and incorporated one approach in a manager's amendment to the Senate version of the 2002 farm bill (S. 1731). The conference substitute deleted the fee provisions and was not included in the final Farm Security and Rural Investment Act of 2002 (P.L. 107-171). In the conference report accompanying the final bill (H.Rept. 107-424, p. 666), the managers “strongly encouraged” EPA to withdraw its proposed tolerance fee rule and to instead work with the appropriate committees for a solution. Similar proposals to increase tolerance fees, included in EPA's annual budget requests for FY2001 through FY2004, have been prohibited each year by Congress in appropriations acts.⁹⁵ As discussed earlier in this report, the

⁹⁰ *Chemical Specialties Manufacturers Association (now the Consumer Specialty Products Association) v. EPA*, No. 88-1525. D.D.C., July 25, 1988. The lawsuit has been held in abeyance since the passage of the 1988 FIFRA amendments.

⁹¹ Appropriations bills for VA-HUD and Independent Agencies passed by the 107th Congress (P.L. 107-73) and the 108th Congress (P.L. 108-7; P.L. 108-135, Continuing Resolution for FY2004, expired January 31, 2004) contained similar prohibitive language.

⁹² U.S. EPA, “Pesticides; Tolerance Processing Fees (Proposed Rule),” 64 *Federal Register* 31040-31050, June 9, 1999.

⁹³ The 1996 FQPA clarified that “inert” ingredients are covered by the definition of a pesticide chemical under FFDCA §201(q)(1).

⁹⁴ EPA Docket # OPPT-301151 and OPPT-301151B.

⁹⁵ Appropriations bills for VA-HUD and Independent Agencies passed by the 106th Congress (P.L. 106-377), the 107th Congress (P.L. 107-73), and the 108th Congress (P.L. 108-7, P.L. 108-135, FY2004 Continuing Resolution) contained similar prohibitive language.

PRIA 1 provisions enacted in 2003 prohibited the collection of *any* tolerance fees beginning in FY2004 through FY2008, and PRIA 2 continues this prohibition through 2012.

Despite the PRIA prohibitions on additional pesticide fees beginning in FY2004, the current and previous two Administrations proposed increased pesticide fees above those provided under PRIA in the FY2005 through the FY2012 budget requests for EPA.⁹⁶ The 108th Congress rejected the President's FY2005 budget proposal to reinstate pesticide fees in the conference report on the Consolidated Appropriations Act for FY2005 (H.Rept. 108-792, p. 1597). In the first session of the 109th Congress, language contained in the FY2005 supplemental appropriations for military funding enacted May 11, 2005 (P.L. 109-13, §6033), banned EPA from going forward with rulemaking for collecting pesticide tolerance fees as prohibited by PRIA.

The President's FY2006 budget request included collecting \$46.0 million in pesticide fees in addition to those authorized under PRIA by proposing to again finalize the tolerance fee rule and to eliminate the prohibition on collecting registration fees originally codified in 1988.⁹⁷ The FY2006 appropriations bill for Interior, Environment, and Related Agencies (P.L. 109-54, H.Rept. 109-188), which includes EPA and was enacted August 2, 2005, did not reflect the Administration's additional anticipated pesticide fee revenues. The proposed fee changes in the Administration's requests would have required congressional approval through the enactment of legislation. In its report on the FY2006 appropriations, the House Appropriations Committee noted that no relevant legislation had been proposed and commented that EPA should not continue to spend time and resources proposing such actions in conflict with current authority (H.Rept. 109-80, p. 105-106).

The President's FY2007 request included an additional \$56 million in the form of "anticipated" revenues (offsetting receipts) to be derived from changes to fees for pesticide registrations. Proposed changes included a new "Registration Review" fee, elimination of the prohibition on collecting tolerance fees, a new schedule and restructuring of the registration service fee program, and increasing the authorized limit on the annual amount of maintenance fees to be collected. The 110th Congress did not adopt the Administration's proposed additional pesticide fee revenues. The Revised Continuing Appropriations Resolution for FY2007 (P.L. 110-5, H.J.Res. 20), enacted on February 15, 2007, provided FY2007 appropriations for EPA and numerous other federal agencies at the same level as provided under the authority and conditions stipulated in the applicable appropriations acts for FY2006 (P.L. 109-54), unless otherwise specified in P.L. 110-5. P.L. 110-5 included no such specifications for EPA's pesticide program activities.

The FY2008 budget proposed modifications to the current pesticide fees structure to collect \$66 million in anticipated revenues,⁹⁸ which included a new fee program to offset the cost of implementing EPA's recently initiated Registration Review Program, restructuring of existing registration service fees, reinstatement of tolerance fees, and increasing the annual limit on the

⁹⁶ EPA's congressional budget for various fiscal years is available at <http://www.epa.gov/planandbudget/archive.html>.

⁹⁷ Executive Office of the President, Office of Management and Budget, *Major Savings and Reforms in the President's 2006 Budget*, available at <http://www.gpo.gov/fdsys/pkg/BUDGET-2006-SAVINGS/pdf/BUDGET-2006-SAVINGS.pdf>.

⁹⁸ Executive Office of the President, Office of Management and Budget, *Major Savings and Reforms in the President's 2008 Budget*, available at <http://www.gpoaccess.gov/usbudget/browse.html>. See also *U.S. Environmental Protection Agency FY2008 Justification of Appropriation Estimates for the Committee on Appropriations*, available at <http://www.epa.gov/planandbudget/archive.html>.

amount of maintenance fees to be collected.⁹⁹ The Consolidated Appropriations Act for FY2008 (P.L. 110-161), enacted December 26, 2007, which included EPA's FY2008 appropriations in Title II of Division F, did not reflect the Administration's additional anticipated pesticide fee revenues. However, PRIA 2, enacted October 6, 2007, amended the authority for use of funds in the Reregistration and Expedited Processing Fund to include use for Registration Review, and included mandatory adjustments of the registration service fees—a 5% increase beginning with registration applications received October 1, 2008, through September 30, 2010.

The FY2009, FY2010, FY2011, and FY2012 budget requests contained proposed modifications for pesticide fees and increases for existing maintenance and registration service fees. The budget requests included proposed restructuring of existing registration service fees, reinstatement of tolerance fees, and increases in the annual limit on the amount of maintenance and registration service fees to be collected.¹⁰⁰ Proposed collection of additional fees above those authorized under PRIA 2 included \$51 million, \$48 million, \$42 million, and \$42 million for each fiscal year FY2009-FY2012, respectively. The proposed fee modifications and increases were not reflected in the FY2009 through FY2012 enacted appropriations for EPA.¹⁰¹

The President's FY2013 budget request submitted to Congress February 13, 2012, did not include any proposed additional pesticide fees but rather indicated that legislative language would be proposed to reauthorize and increase existing maintenance and registration service fees to cover a greater portion of EPA's program operating costs.¹⁰²

Pesticide Program Fee Revenues and Appropriations

Historical appropriated funding and fee revenues for the pesticide program activities provide context for the discussion of fees imposed on pesticide registrants to supplement EPA-appropriated revenues. The two sections that follow provide more detailed information regarding pesticide fee revenues over time and funds appropriated for EPA pesticide program activities.

Revenues from Pesticide Fees

The amount of pesticides fees collected over the years has varied, depending on the statutory authority at the time. **Figure 1** below provides a graphic illustration of the amount (no adjustment for inflation) of tolerance fees, registration fees (only collected for a short period during FY1988),

⁹⁹ See http://www.epa.gov/oppsrrd1/registration_review/index.htm for more information regarding EPA's Registration Review Program.

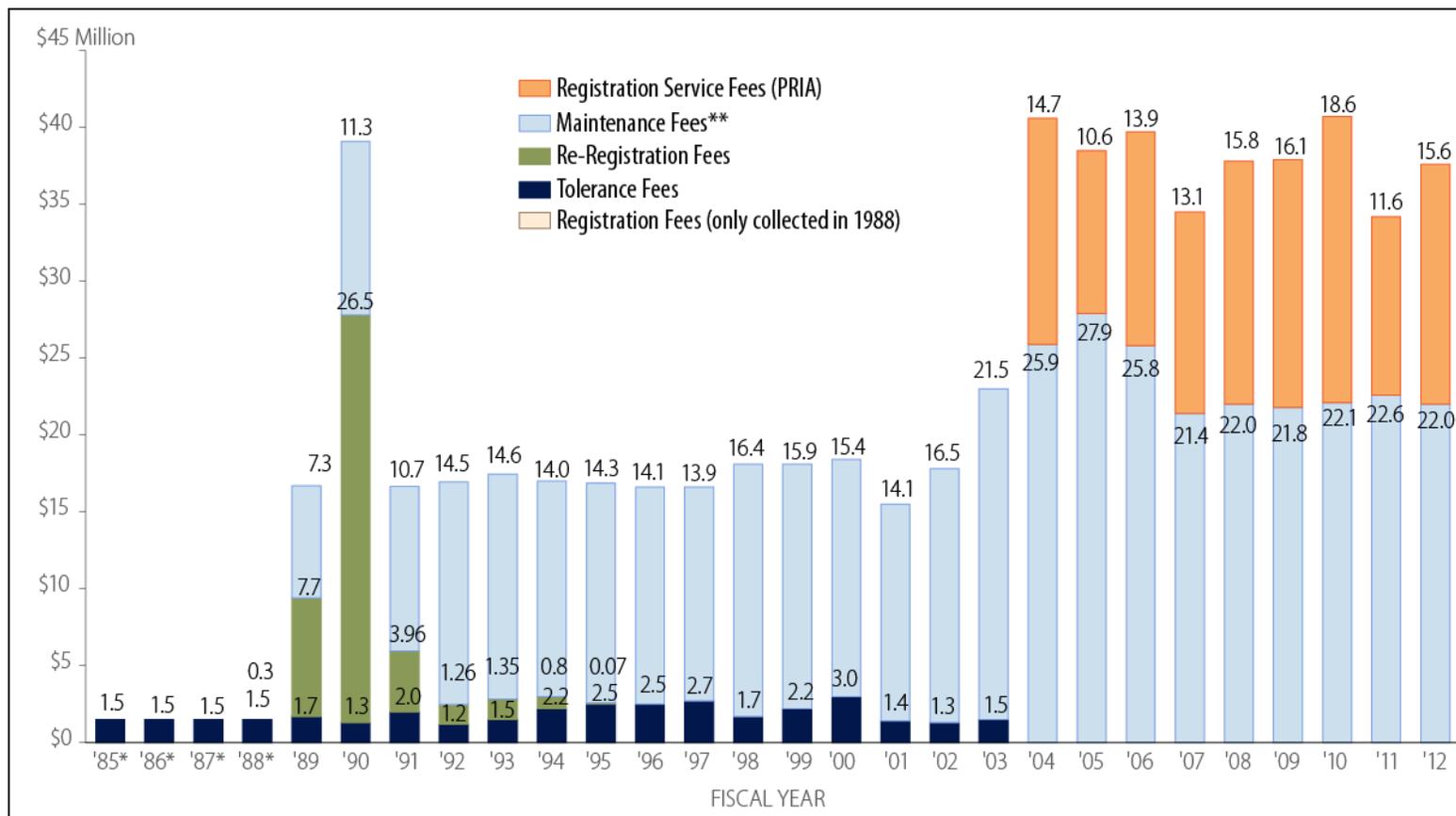
¹⁰⁰ EPA's congressional budget justifications for various fiscal years are available at <http://www.epa.gov/planandbudget/archive.html>.

¹⁰¹ The Omnibus Appropriations Act, 2009 (P.L. 111-8), enacted March 11, 2009; the Interior Department and Furthering Continuing Appropriations for FY2010 (P.L. 111-88), enacted October 30, 2009; the Department of Defense and Full-Year Continuing Appropriations Act, 2011 (P.L. 112-10), enacted April 15, 2011, or in the preceding enacted series of temporary continuing resolutions (CRs); and Consolidated Appropriations Act, 2012 (P.L. 112-74), enacted December 23, 2011.

¹⁰² EPA's FY2013 Congressional Justification, pp. 986-987 (pdf pp. 995-1457), <http://www.epa.gov/planandbudget/annualplan/fy2013.html>.

reregistration fees, maintenance fees, and registration service fees collected during FY1985 through FY2012, before and after the enactment of PRIA in January 2004. The highest combined amount collected from the three fees for one year prior to the enactment of PRIA was an estimated \$39.1 million in FY1990, the peak year for collection of the one-time reregistration fees. The highest combined total amount of registration service fees and maintenance fees collected after enactment of PRIA was the \$40.6 million in FY2004 and \$40.7 million in FY2010.

Figure I. EPA Pesticide Program Fee Revenues (Net Receipts in Nominal Dollars), FY1985-FY2012



Source: Prepared by Congressional Research Service (CRS) with information from the U.S. EPA Office of Pesticide Programs.

* Tolerance fees for FY1985-FY1988 are based on the average number of petitions per year (8-12) and the average fee per petition (\$150,000).

** Maintenance fees have been capped by legislation for each fiscal year: \$14 million for FY1989-FY1997; \$16 million for FY1998-FY2000; \$14 million for FY2001; \$17 million for FY2002; and \$21.5 million for FY2003. PRIA 1 capped maintenance fees at \$26 million for FY2004, \$27 million for FY2005 and FY2006, \$21 million for FY2007, and \$15 million for FY2008. PRIA 2 extended the authority and set the annual statutory aggregate limit for maintenance fees at \$22.0 million for FY2008 through FY2012. The annual statutory aggregate limit was increased from \$22.0 million in PRIA 2 to \$27.8 million per fiscal year in PRIA 3. The annual maximum maintenance fees per registrant, and in aggregate, remain constant for each of the fiscal years FY2013 through FY2017 under PRIA 3.

Registration Service Fees (PRIA)

Service fees under PRIA 3 apply to registration applications received after October 1, 2012. Registration applications received on or after March 23, 2004, were subject to the new service fees under PRIA 1; PRIA 2 applied to those received after October 1, 2007. During FY2004, the initial year of collecting fees under PRIA, EPA indicated that it collected \$14.7 million in new “registration service” fees and spent roughly \$5.0 million. The remaining FY2004 balance of \$9.7 million was carried forward to FY2005.

In its FY2012 PRIA implementation report,¹⁰³ EPA reported receiving a net total of \$15.6 million in new net “registration service” fees during FY2012, roughly a 34% increase compared to the FY2011 net total of \$11.6 million, but 16% lower than the FY2010 net total of \$18.6 million. The FY2012 net total in registration fees collected includes subtraction of \$1.0 million in refunds for overpayments and withdrawals of applications. EPA reported expending \$13.4 million of the \$20.3 million total revenues available during the FY2012, which included \$4.7 million carried forward from FY2011.¹⁰⁴ The FY2012 expenditures were a slight decrease compared to the \$14.3 million expended in FY2011, but 27% less than the \$18.2 million expended in FY2010. The remaining FY2012 balance of \$7.0 million carried forward to FY2013 was nearly a 50% increase above the FY2011 balance of \$4.7 million carried forward to FY2012, but less than the \$7.4 million carried forward from FY2010 to FY2011.

Table 1 below presents EPA’s reported expenditures of fees collected during each fiscal year FY2004-FY2012, including the distribution of expenditures by pesticide program activity. The majority (52%) of the fee revenues expended in FY2012 was for payroll, although a decrease below payroll expenditure levels for the past two fiscal years. The FY2012 payroll amount of \$7.4 million was not quite 3% less than the FY2011 payroll amount of \$7.6 million, but was almost 22% below the FY2010 and FY2009 payroll expenditures of \$9.4 million (52% and 51% of total fiscal year expenditures, respectively); relatively constant when compared to FY2008 (\$7.6 million; 44%) and FY2005 (\$7.9 million; 71%); but an increase above the payroll amounts for FY2007 (\$7.1 million; 41%) and FY2006 (\$5.8 million; 54%).

As indicated in **Table 1**, at \$3.0 million (22% of fee revenue expended), the amount of fees used for contract expenditures in FY2012 was more than 35% below the FY2011 expenditure of \$4.6 million (32% of total FY2011 expenditures), and continued a downward trend since FY2009. Prior to FY2009 (\$6.7 million; 36%) and FY2010 (\$6.5 million; 36%), the amount and proportion of fee revenue used for contract expenditures had been steadily increasing since FY2005: \$2.2 million (20%) in FY2005; \$4.0 million (37%) in FY2006; \$7.0 million (46%) in FY2007; and \$7.2 million (42%) in FY2008.¹⁰⁵

¹⁰³ See EPA’s *Implementing the Pesticide Registration Improvement Act - Fiscal Year 2012*, March 2013, at http://www.epa.gov/pesticides/fees/2012annual_report/fees-collected-fy2012.pdf; previous annual fiscal year reports for FY2004 through FY2011 are available at <http://www.epa.gov/pesticides/fees/>.

¹⁰⁴ Under FIFRA Section 33(c) (7 U.S.C. §136w-8(c)), interest earned and added to the PRIA Registration Fund is available to EPA for activities as authorized under PRIA 2. EPA reported that interest totaled \$1,244 in FY2012, compared to \$4,644 in FY2011; see footnote 103.

¹⁰⁵ See footnote 103.

**Table I. EPA Expenditures from the Pesticide Registration Fund
by Program Activity: FY2004-FY2012**

(dollars in thousands)

Program Activity	FY2004	FY2005	FY2006	FY2007	FY2008	FY2009	FY2010	FY2011	FY2012
Payroll	\$2,535.3	\$7,898.2	\$5,819.8	\$7,111.6	\$7,556.4	\$9,401.6	\$9,401.3	\$7,595.2	\$7,353.8
Contracts	\$1,591.3	\$2,228.8	\$4,013.1	\$6,979.5	\$7,168.1	\$6,733.3	\$6,485.7	\$4,561.6	\$2,950.3
Worker Protection	\$430.0	\$750.1	\$750.0	\$750.0	\$2,250.0	\$2,250.0	\$2,000.0	\$2,000.0	\$2,000.0
Other Expenses	\$455.8	\$274.3	\$221.6	\$302.7	\$205.8	\$140.6	\$309.9	\$168.8	\$1,055.3
Total Expenditures	\$5,012.4	\$11,151.4	\$10,804.5	\$15,143.8	\$17,180.3	\$18,525.5	\$18,196.9	\$14,325.6	\$13,359.4

Source: U.S. EPA, *Implementing the Pesticide Registration Improvement Act - Fiscal Year 2012*, March 1, 2013; "Pesticide Registration Service Fees: Fees Collected, Waived, Exempted and Expended" on EPA's website at http://www.epa.gov/pesticides/fees/2012annual_report/fees-collected-fy2012.pdf.

Maintenance Fees

Annual maintenance fee amounts collected per registration are set in statute, dependent on the number of registrations held by a registrant. The fee amount is subject to adjustment by EPA, based on the annual aggregate limit, also established by statute. The maintenance fee requirement applies to all registrations granted under Section 3 of FIFRA as well as registrations granted to meet special local needs under Section 24(c) of FIFRA.

The initial 1988 authorization (P.L. 100-532) for maintenance fees set the annual aggregate at \$14.0 million for the nine-year period from FY1989 to FY1997. The 1996 FQPA authorized collection of an additional \$2 million (maximum aggregate of \$16 million) per year for FY1998, FY1999, and FY2000, and returned to the original aggregate limit of \$14 million in FY2001. The statutory authority for maintenance fees expired September 30, 2001, but was extended by Congress annually through appropriations legislation for FY2002, FY2003, and a portion of FY2004 to the enactment of PRIA. The annual aggregate limit was \$17 million for FY2002 (P.L. 107-73), \$21.5 million for FY2003 (P.L. 108-7), and \$21.5 million for a portion of FY2004 through January 31, 2004, by Continuing Resolution P.L. 108-135.

PRIA 1, included in the Consolidated Appropriations Act of FY2004 (P.L. 108-199), extended the existing authority to collect maintenance fees through FY2008 at initially increasing, then declining, levels. PRIA 1 set the annual statutory aggregate limit at \$26 million for FY2004, \$27 million for FY2005 and FY2006, \$21 million for FY2007, and \$15 million for FY2008. PRIA 2 extended the authority and set the annual statutory aggregate limit for maintenance fees at \$22.0 million for each of the fiscal years FY2008 through FY2012. PRIA 3 set the annual aggregate limit at \$27.0 million for FY2013 through FY2017. **Figure 1** above indicates that EPA generally collected the maximum aggregate limit as set by the statute in a given year. In the fiscal years following the enactment of PRIA 1, EPA collected \$25.9 million in maintenance fees in FY2004 (EPA initiated collection of maintenance fees at the beginning of FY2004 under preexisting authority, prior to the reauthorization provisions included in PRIA 1), \$27.9 million in FY2005,

\$25.8 million in FY2006, \$21.4 million in FY2007, \$22.0 million in FY2008, \$21.8 million in FY2009, \$22.1 million in FY2010, \$22.6 million in FY2011, and \$22.0 million in FY2012.¹⁰⁶

In its March 2013 annual PRIA Implementation report, EPA reported that during FY2012, \$22.0 million (120.8 work years) in obligations was charged against the Reregistration and Expedited Processing Fund to offset the cost of the reregistration and registration review programs and other authorized pesticide program activities. About \$589,000 (4.1 work years) from the fund was used to carry out new inert ingredient reviews (FIFRA Section 4(k)(3)), and \$2.3 million was used to support 15.9 work years for processing fast track amendments and new products (FIFRA Section 3(c)(3)(B)).¹⁰⁷ The unobligated balance in the Fund at the end of FY2012 was zero.

Under authority provided in Section 4(i)(5)(G) of FIFRA, the EPA Administrator may cancel registrations for failure to pay maintenance fees. In July 2012,¹⁰⁸ EPA reported that maintenance fees had been paid for 15,420 (96%) FIFRA Section 3 registrations on file, and for 2,028 FIFRA Section 24(c) registrations on file as of January 2012. EPA canceled 198 registrations (177 FIFRA Section 3 and 21 FIFRA 24(c) registrations) for nonpayment of the 2012 maintenance fees. EPA also waived the 2012 maintenance fee for 196 minor use registrations as requested by the registrants. In September 2013, EPA reported that maintenance fees had been paid for 15,804 (97%) FIFRA Section 3 registrations on file, and for 1,941 FIFRA Section 24(c) registrations on file as of January 2013.¹⁰⁹ EPA sent a notice of intent to cancel 220 registrations for nonpayment of the 2013 maintenance fees.

Tolerance Fees

Historically, the annual tolerance fee collected from each applicant was based on the specific actions required to process a submitted application and varied depending on the number and type of petitions received by the agency in a given year. The amounts were adjusted over time based on an inflation calculation defined in statute.¹¹⁰ For the 20 years prior to the enactment of PRIA 1 in January 2004, annual tolerance fees collected by EPA averaged about \$1.8 million. As discussed earlier in this report (“Prohibitions on “Tolerance Fees” and Other Pesticide Fees”), PRIA 3 continued the prohibition on collection of tolerance fees through the end of FY2017. Fee

¹⁰⁶ The Reregistration and Expedited Process Fund has two types of receipts: fee collections and interest earned on investments. More than 99.98% of the \$22.0 million in fee receipts in 2012 was fee collections.

¹⁰⁷ See “Maintenance Fees—Fees Collected and Expended,” EPA’s *Implementing the Pesticide Registration Improvement Act - Fiscal Year 2012*, http://www.epa.gov/pesticides/fees/2012annual_report/maintenance-fees-fy2012.pdf. Note that Reregistration and Expedited Processing Fund revenues are supplemented by appropriated funds; a reported \$33.2 million in appropriated funds were included in EPA’s FY2012 Enacted Operating Plan for reregistration and registration review program activities, compared to \$38.5 million in FY2011.

¹⁰⁸ U.S. EPA, “Cancellation of Pesticides for Non-Payment of Year 2012 Registration Maintenance Fees,” *77 Federal Register* 44229-44231, July 27, 2012. EPA originally identified 204 registrations subject to cancellation for nonpayment in the July 27, 2012, FR Notice; six entries inadvertently included were removed in a subsequent correction Notice (U.S. EPA, “Cancellation of Pesticides for Non-Payment of Year 2012 Registration Maintenance Fees; Correction,” *77 Federal Register* 63827, October 17, 2012).

¹⁰⁹ U.S. EPA, “Cancellation of Pesticides for Non-Payment of Year 2013 Registration Maintenance Fees,” *78 Federal Register* 57379-57383, September 18, 2013.

¹¹⁰ Tolerance fees could be adjusted annually, based on annual percentage changes in federal salaries (40 C.F.R. 180.33[o]). The most recent adjustment in May of 2003 was an increase of 4.27%, based on the 2003 pay raise for General Federal Schedule (GS) employees in the Washington DC/Baltimore MD metropolitan area (68 FR 24370, May 7, 2003).

revenues to support tolerance assessments are allocated from maintenance fees (for tolerance reassessments) and registration service fees (for new and amended tolerances) through FY2017.

1988 One-Time Reregistration and Registration Fees

Reregistration fees, as established under the 1988 amendments to FIFRA (P.L. 100-532), varied considerably and were based, among other things, on whether the pesticide was an active ingredient registered for a major food or feed use or whether it was registered only for nonfood or nonfeed uses. The one-time active ingredient fee for reregistration ranged from \$0 for a pesticide used exclusively for minor uses and for certain antimicrobial active ingredients to \$150,000 for a major food or feed use active ingredient. By 1994, all authorized one-time reregistration fees had been collected, resulting in an estimated combined total of \$31.64 million. As indicated earlier in this report (“Elimination of 1988 Reregistration Fees”), PRIA 3 amended FIFRA by eliminating the one-time reregistration fee provisions.¹¹¹

As discussed earlier, prior to the 1988 FIFRA amendments, EPA had promulgated a final pesticide registration fee regulation,¹¹² under the authority of the Independent Offices Appropriation Act (IOAA) of 1952 (31 U.S.C. §9701). EPA collected an estimated \$300,000 in fees until the collection of registration fees under this authority was temporarily suspended through FY1997 by the 1988 amendments to FIFRA (§4(i)(6)). Collection of these fees was suspended in subsequent years under the 1996 FIFRA/FFDCA amendments (FQPA) and later, annual appropriations (see discussion under “Other Pesticide Fee Authority”).

EPA Pesticide Program Appropriated Funds

Pesticide fee revenues are supplemental to appropriated funds provided for EPA’s pesticide program activities. PRIA 3, as did PRIA 1 and PRIA 2, included provisions to ensure that the fee revenues would not be offset by potential decreases in appropriations for the Office of Pesticide Programs (OPP). As a condition of PRIA 3, authorization to assess registration service fees is suspended if congressional appropriations for specified functions conducted by the EPA Office of Pesticide Programs fall below a minimum amount relative to corresponding FY2012 congressional appropriations (excluding the amount of any fees appropriated for the fiscal year).¹¹³ The condition under PRIA 1 and PRIA 2 was based on the no less than 3% below the corresponding appropriations for FY2002 (not FY2012). The historic minimum appropriations level has been satisfied and the fee collection authority maintained for each of the subsequent fiscal years through FY2012. EPA and other federal departments and agencies operated under two continuing resolutions for FY2013 (P.L. 112-175 and P.L. 113-6).¹¹⁴ Agencies are currently operating under a continuing resolution for FY2014 (P.L. 113-46) until January 15, 2014.

In recent fiscal years, appropriated funding for EPA’s pesticide program activities has been allocated within three of the eight EPA appropriations accounts: Science and Technology (S&T), Environmental Programs and Management (EPM), and State and Tribal Assistance Grants

¹¹¹ Section 2(a)(1)(C) of P.L. 112-177 strikes paragraphs (1), (2), (3), (4), and (7) under 7 U.S.C. §136a-1(i).

¹¹² 40 C.F.R. 152(u) and 40 C.F.R. 172.

¹¹³ FIFRA §33(d) Assessment of Fees (7 U.S.C. §136w-8(d)(2)).

¹¹⁴ CRS Report R42520, *Environmental Protection Agency (EPA) Appropriations for FY2013: Debate During the 112th Congress*, coordinated by (name redacted).

(STAG). **Table 2** shows enacted appropriations for FY2004 through FY2012, and FY2013 requested only for those pesticide program activities explicitly defined in reports accompanying annual appropriations. Other funding for pesticide program activities included in broader program activities as reported, for example, “Chemical safety and sustainability research” (includes endocrine disruptor research) within the S&T account, is not reflected in the table. Corresponding amounts for the FY2013 CR (P.L. 112-175) are not available because the specific funding levels for most individual departments and agencies and their program activities were not available at the time this report was updated.

**Table 2. EPA Appropriations for Pesticide Program Activities,
FY2004-FY2012 Enacted and FY2013 President's Budget Request**

(dollars in millions)

Pesticide Program Activities by Appropriations Account	FY2004 P.L. 108-199	FY2005 P.L. 108-447	FY2006 P.L. 109-54	FY2007 P.L. 110-5	FY2008 P.L. 110-161	FY2009 P.L. 111-8	FY2010 P.L. 111-88	FY2011 P.L. 112-10	FY2012 P.L. 112-74	FY2013 Request
<i>Environmental Programs and Management (EPM)</i>										
Registration	\$40.8	\$39.2	\$41.6	NR	NR	NR	NR	NR	NR	NR
Reregistration	\$51.7	\$51.3	\$57.5	NR	NR	NR	NR	NR	NR	NR
Field Programs	\$25.2	\$24.4	\$24.5	NR	NR	NR	NR	NR	NR	NR
Science Policy & Biotech.	\$1.7	\$1.6	\$1.7	NR	NR	NR	\$1.8	NR	\$1.8	\$1.8
<i>EPM Subtotal (Pesticide Licensing)</i>	<i>\$119.4</i>	<i>\$116.5</i>	<i>\$125.3</i>	<i>\$119.5</i>	<i>\$118.4</i>	<i>\$116.1</i>	<i>\$123.3</i>	<i>\$116.9</i>	<i>\$110.3</i>	<i>\$110.0</i>
<i>Science and Technology (S&T)</i>										
Registration	\$2.3	\$2.5	\$2.4	NR	NR	NR	NR	NR	NR	NR
Reregistration	\$2.4	\$2.5	\$2.5	NR	NR	NR	NR	NR	NR	NR
<i>S&T Subtotal (Pesticide Licensing)</i>	<i>\$4.7</i>	<i>\$5.0</i>	<i>\$4.9</i>	<i>\$5.7</i>	<i>\$5.8</i>	<i>\$5.7</i>	<i>\$6.6</i>	<i>\$6.6</i>	<i>\$6.6</i>	<i>\$7.1</i>
<i>State and Tribal Assistance Grants (STAG)</i>										
Implementation Grants	\$13.0	\$12.9	\$12.9	\$12.9	\$12.8	\$13.0	\$13.5	\$13.5	\$13.1	\$13.1
Enforcement Grants	\$19.8	\$19.3	\$18.6	\$18.6	\$18.4	\$18.7	\$18.7	\$18.7	\$18.6	\$19.1
<i>STAG Subtotal</i>	<i>\$32.8</i>	<i>\$32.2</i>	<i>\$31.5</i>	<i>\$31.5</i>	<i>\$31.2</i>	<i>\$31.7</i>	<i>\$32.2</i>	<i>\$32.2</i>	<i>\$31.7</i>	<i>\$32.2</i>
Total	\$156.9	\$153.7	\$161.7	\$156.7	\$153.4	\$153.5	\$162.1	\$155.7	\$148.6	\$149.3

Sources: Prepared by the Congressional Research Service based on information from House and Senate Appropriations Committees, conference reports, the *Congressional Record*, explanatory statements accompanying appropriations, and EPA's Congressional Budget Justifications for each of the fiscal years. Relevant specific amounts for pesticide program activities in FY2013 enacted appropriations (P.L. 113-6) were not available at the time this CRS report was updated.

Note: NR indicates that a separate line item amount was not reported for that particular pesticide program activity in a given fiscal year. Funded levels presented in the table are only for those pesticide program activities explicitly defined in reports accompanying annual appropriations. Other funding for pesticide program activities included in broader program activities as reported, for example, "Chemical safety and sustainability research" (including endocrine disruptor research) within the S&T account, is not reflected in the table.

Pesticide Registration and Reregistration Activities Since the Enactment of PRIA

All registration service fees received by EPA are deposited in the Pesticide Registration Fund within the U.S. Treasury as established under PRIA. EPA uses registration service fees to supplement appropriations to develop improved registration review processes, hire new staff, and cover costs associated with the review and decision making associated with registration applications for which fees have been paid, under the deadlines identified in PRIA. Portions of registration service fees are also used to enhance scientific and regulatory activities related to worker (farm) protection and the Pesticide Safety Education Program (PSEP). Maintenance fees collected by the agency are placed in the Reregistration and Expedited Processing Fund. The agency has used the maintenance fees to supplement appropriations primarily for reregistration (i.e., a reevaluation of pesticides registered prior to 1984) and tolerance review activities, and more recently for registration review. Portions of the revenue from this fund are used to carry out new inert ingredient reviews and to process fast track amendments and new products under FIFRA Section 3(c)(3)(B).

PRIA 1 had modified FIFRA with regard to completion deadlines for reregistration decisions.¹¹⁵ All reregistrations, other than those requiring tolerances for use on food, were to be completed no later than October 3, 2008. Reregistration of active ingredients that require tolerances or exemptions from tolerances were to be completed by August 3, 2006, as required by FFDC (Section 408[q][1][C]) for tolerance reassessment. EPA completed reregistration decisions by September 2008; however, following the completion of a reregistration decision for a pesticide active ingredient, EPA must reregister the individual end-use products that contain a pesticide ingredient that has been declared eligible for reregistration. EPA has initiated this process, and expects completion by 2014.

In anticipation of completing the pesticide reregistration and tolerance reassessment programs, EPA published a final rule for the “registration review” program in the *Federal Register* on August 9, 2006.¹¹⁶ Through this registration review program, EPA plans to review pesticides registered as of October 2007 approximately every 15 years, consistent with FIFRA as amended. The agency began implementing the registration review program at the start of FY2007.

A key provision of PRIA 1, PRIA 2, and PRIA 3 in conjunction with the fee revenues is the requirement for EPA to identify reforms to its pesticide registration and registration review processes with the intent of reducing the agency’s decision review times. EPA has reported implementation of a number of process improvements to monitor workload and ensure that PRIA due dates are being met. As required initially under PRIA 1, EPA released annual PRIA implementation reports describing these process improvements and other efforts and accomplishments. EPA released its inaugural report in March 2005 summarizing its first nine months of progress implementing the provisions of PRIA from January 23, 2004, through

¹¹⁵ 7 U.S.C. §36a-1(g)(2)(A).

¹¹⁶ U.S. EPA (EPA), “Pesticides; Procedural Regulations for Registration Review,” 71 *Federal Register* 45720, August 9, 2006.

September 30, 2004, and subsequent reports have been annually released in 2006 through 2012.¹¹⁷

Registration Activities

EPA reported the completion of 12,165 registration decisions/actions subject to PRIA between March 2004 (the effective date for PRIA implementation) and the end of FY2012. Among the 1,574 decisions completed during FY2012, 1,068 (68%) were for conventional pesticides, 333 (21%) for antimicrobials, and 134 (11%) for biopesticides.¹¹⁸ **Table 3** below presents the number of completed PRIA registration decision/actions by pesticide type as reported by EPA for each of the fiscal years FY2004 through FY2011.

Table 3. PRIA Completed Registration Decisions/Actions by Pesticide Type Reported by EPA for FY2004 Through FY2012

Type of Pesticide	FY2004	FY2005	FY2006	FY2007	FY2008	FY2009	FY2010	FY2011	FY2012
Conventional	184	779	957	1189	1243	1104	0169	1074	1068
Antimicrobial	14	209	271	308	336	342	310	346	333
Biopesticide	10	110	119	123	98	124	138	134	173
Total	208 ^a	1098	1347	1620	1677	1570	1517	1554	1574

Source: Prepared by the Congressional Research Service based on data reported in EPA's annual PRIA implementation reports for fiscal years FY2004 through FY2012 (<http://www.epa.gov/pesticides/fees/>).

a. Represents only a portion of the fiscal year following the enactment of PRIA 1.

In its annual PRIA implementation report for FY2012, EPA reported the expenditure of \$1.0 million from the Pesticide Registration Fund (registration service fees collected) for worker protection program activities, and \$500,000 in fees was used for the Pesticide Safety Education Program in FY2010, as required by PRIA 2. PRIA 1 had authorized the use of one-seventeenth of the registration fund (not less than \$750,000 but not more than \$1 million) for enhancing worker protection scientific and regulatory activities. PRIA 2 retained the same proportional distribution for worker protection, but increased the minimum to not less than \$1 million, and mandated \$500,000 for funding of the Pesticide Safety Education Program (PSEP) for FY2008 through FY2012.¹¹⁹ PRIA 3 retained these levels. Activities have included continued interaction with stakeholder groups through the agency's Pesticide Program Dialogue Committee's (PPDC), a Federal Advisory Committee, enhancement of safe practices and pesticide risk recognition training for workers and health-care providers to improve poisoning prevention and response, and expansion of poisoning recognition and occupational illness and injury surveillance.¹²⁰

¹¹⁷ The PRIA implementation annual reports are available at <http://www.epa.gov/pesticides/fees/>.

¹¹⁸ See "Pesticide Registration Service Fees—Progress in Decision Times," in EPA's *Implementing the Pesticide Registration Improvement Act - Fiscal Year 2012*, March 2013, at http://www.epa.gov/pesticides/fees/2012annual_report/progress-meeting-decision-times-fy2012.pdf.

¹¹⁹ 7 U.S.C. 138w-8(c)(3)(B).

¹²⁰ For a list of FY2012 projects see Table 1 in "Registration Service Fees—Pesticide Working Protection," in *Implementing the Pesticide Registration Improvement Act - Fiscal Year 2011*, http://www.epa.gov/pesticides/fees/2012annual_report/table1.pdf.

EPA also reported that \$500,000 in fee revenues was allocated for partnership grants as required under PRIA 2. The FY2012 funding supported a cooperative agreement for the National Pesticide Information Network to provide objective, science-based information about pesticides to the public. No appropriated funds were used to augment allocated fee revenues for the partnership grants in FY2011 as in previous fiscal years. Allocated fee revenues were augmented with appropriated funds in FY2010 to award \$1.0 million in partnership grants to fund five projects, to award \$1.3 million for six projects in FY2009, to award \$1.0 million for five projects in FY2008. Detailed descriptions of these projects, and those for FY2008 through FY2012, are included in the annual PRIA implementation report for FY2012.¹²¹

Among its efforts to enhance the registration process, EPA has reported that recommendations from several intra-agency workgroups led to the development of pesticide registration procedures for front-end processing and screening, waivers and refunds, funds management, improved intra- and interagency coordination, and enhancements to the internal registration tracking system. EPA also created a “Process Improvement” workgroup under the auspices of the PPDC—an advisory group—to evaluate recommended process improvements in the registration program.¹²² The workgroup, which was further expanded, comprises representatives from individual registrant companies, pesticide trade associations, public interest groups, and agency staff, and it continues to address process improvement questions. Based in part on ongoing recommendations from the committee, the agency continued to develop new process improvements and achieve timely completions of decisions during FY2011, and to refine those initiated during previous fiscal years. EPA continues to focus on several areas identified by the stakeholder groups, including labeling consistency, communication of schedules, clarifications of certain application requirements and improved guidance materials, and electronic submissions.¹²³

Reregistration/Tolerance Reassessment Activities

Upon completion of a review of a pesticide for reregistration or tolerance reassessment, EPA issues one of the following risk management decision documents: a Reregistration Eligibility Decision (RED), an Interim Reregistration Eligibility Decision (IRED), or a Tolerance Reassessment Progress and [Interim] Risk Management Decision (TRED).¹²⁴ Increased resources, and the adoption of integrated reregistration and tolerance reassessment process improvements under PRIA 1 and PRIA 2, contributed to EPA more effectively meeting its statutory obligations.

By August 12, 2008, EPA completed reregistration decisions for 605 of the original 613 pesticide “cases,”¹²⁵ including 376 REDs and 229 canceled cases.¹²⁶ The eight remaining REDs were

¹²¹ See “Pesticide Registration Service Fees—Partnership Grants,” EPA’s *Implementing the Pesticide Registration Improvement Act - Fiscal Year 2012*, March 2013, http://www.epa.gov/pesticides/fees/2012annual_report/table2.pdf.

¹²² A brief background on the PPDC, as well as agendas and reports from workgroup meetings, is available at <http://www.epa.gov/pesticides/ppdc/pria/index.html>.

¹²³ See “Pesticide Registration Service Fees—Progress in Meeting Decision Times,” “Process Improvements in the Pesticide Program,” in EPA’s *Implementing the Pesticide Registration Improvement Act - Fiscal Year 2011*, March 1, 2011, http://www.epa.gov/pesticides/fees/2011annual_report/pria_annual_report_2011.htm.

¹²⁴ For more detailed explanation of these decision documents, see <http://www.epa.gov/pesticides/reregistration/index.htm>.

¹²⁵ Related pesticide active ingredients are grouped into cases; the 613 cases encompass approximately 1,150 pesticide active ingredients.

¹²⁶ EPA, http://www.epa.gov/oppsrrd1/reregistration/reregistration_facts.htm.

completed at the end of September 2008, meeting the reregistration statutory deadline. EPA reported¹²⁷ that it completed reassessment of 9,637 (99.1%) of the 9,721 preexisting tolerances by August 3, 2006 (the statutory deadline).¹²⁸ According to EPA, the reassessments resulted in the revocation of 3,200 food tolerances, the modification of 1,200 tolerances, and the retention of the remaining 5,237 tolerances. The remaining 84 tolerance reassessment decisions for five carbamate pesticides—aldicarb, oxamyl, carbaryl, formetanate, and carbofuran—were completed in September 2007 as part of EPA’s cumulative risk assessment for N-methyl carbamate pesticides.¹²⁹

As a final step in the reregistration process, following the completion of a RED for a pesticide active ingredient, EPA must reregister the individual end-use products that contain a pesticide ingredient that has been declared eligible for reregistration. EPA reported completing 1,284 product reregistration decisions during FY2012, compared to 1,218 in FY2011, 1,718 in FY2010, 1,769 in FY2009, 1,196 in FY2008, and 978 in FY2007. The 1,284 product reregistration actions during FY2012 included 186 products registered, 980 amended, 26 suspended and 92 canceled. As of the end of FY2012, EPA reported that it had completed decisions for 18,208 of the total 24,583 pesticide end-use products subject to product reregistration. Decisions are pending for 6,376 products. EPA also reported that as of the end of FY2012 it had completed product reregistration for 258 of the total 384 REDs, including 29 of the 31 organophosphates. EPA’s goal for FY2013 is 1,200 decisions, and the agency expects to complete the last decisions in 2014.¹³⁰

Registration Review¹³¹

The 1996 amendments to FIFRA (as enacted under FQPA) included, among other things, a provision for the periodic review of pesticide registrations. Under Section 3(g)(1)(A), Registration Review, “... The Administrator shall by regulation establish a procedure for accomplishing the periodic review of registrations. The goal of these regulations shall be a review of a pesticide’s registration every 15 years.” Such periodic review is necessary to determine if all registered pesticides continue to meet the statutory standard of no unreasonable adverse effects, taking into account changes in scientific capabilities for assessing risk, as well as changes in policies and pesticide use practices over time. As published in August 2006, EPA’s registration review final rule replaces the agency’s reregistration and tolerance reassessment programs, which are nearly completed.¹³²

¹²⁷ EPA, *Accomplishments under the Food Quality Protection Act (FQPA)*, August 3, 2006, at http://www.epa.gov/pesticides/regulating/laws/fqpa/fqpa_accomplishments.htm.

¹²⁸ The 1996 amendments to FIFRA and FDCA included a schedule for completion of tolerance reviews: 33% by August 3, 1999; 66% by August 3, 2002; and 100% by August 3, 2006 (FQPA; P.L. 104-170, Title IV, §405).

¹²⁹ The Food Quality Protection Act requires EPA to assess the cumulative risks of pesticides that share a common mechanism of toxicity, or act the same way in the body. For more information on EPA’s cumulative risk assessments, see <http://www.epa.gov/oppsrrd1/cumulative/index.htm>.

¹³⁰ See “Maintenance Fees—Reevaluation Programs,” in EPA’s *Implementing the Pesticide Registration Improvement Act - Fiscal Year 2012*, March 2013, p. 1-2, http://www.epa.gov/pesticides/fees/2012annual_report/accompreevaluation-fy2012.pdf. See also U.S. EPA, “Pesticide Reregistration Performance Measures and Goals, Annual Progress Report,” January 1, 2013, <http://www.regulations.gov/#!documentDetail;D=EPA-HQ-OPP-2012-0938-0002>, and EPA’s Product Reregistration website at <http://www.epa.gov/pesticides/reregistration/product-reregistration.htm>.

¹³¹ For a more detailed overview of EPA’s registration review process, see http://www.epa.gov/oppsrrd1/registration_review/reg_review_process.htm.

¹³² 71 *Federal Register* 45732, August 9, 2006, as amended at 73 *Federal Register* 75595, December 12, 2008.

According to EPA, there are 721 registration review cases, comprising 1,135 active ingredients.¹³³ The majority of these review cases are conventional pesticides (473 cases and 630 active ingredients), but cases also include antimicrobial pesticides, biochemical pesticides, and microbial pesticides. To meet its goal of reviewing each registered pesticide every 15 years, EPA anticipates it will require decisions on at least 45 cases (more than 70 pesticide active ingredients) annually. EPA initiated implementation of registration review in early FY2007, opening 25 registration review case dockets by the end of the fiscal year. Consistent with its published planned registration review schedule for FY2008 through FY2011, EPA opened 46 dockets in FY2008, 70 in FY2009, 75 in FY2010, 81 in FY2011, and 79 in FY2012.¹³⁴ The pace must be maintained for the next six years to ensure the initial 15-year cycle remains on schedule for FY2022. In FY2012, 744 pesticide cases comprising 1,165 active ingredients were scheduled for registration review (including cases that were scheduled but were not required to go through registration review because there are no active registrations for those pesticides in the United States).¹³⁵

On July 9, 2013, EPA released its revised four-year schedule, *Registration Review: Summary of Planned Schedule for Opening Registration Review Dockets by Fiscal Year 2012 to 2015*.¹³⁶ According to the report's summary, a number of changes to the registration review schedule were the result of moving cases formerly on the antimicrobial pesticide schedule to the conventional schedule that were determined to no longer have registered antimicrobial uses; certain other pesticides that were determined to no longer have conventional uses were moved from the conventional pesticide schedule to the antimicrobial pesticide schedule or to the biopesticide schedule. Several changes to the registration review schedule for FY2013 occurred as a result of the determination to move all fumigants to the same schedule.¹³⁷

EPA plans to update the registration review schedule at least once a year and possibly more frequently based on the agency's consideration of issues raised by the public, registrants, and other stakeholders.

Conclusion

EPA's timely completion of the statutory registration, reregistration, and tolerance assessment requirements for pesticides has been an ongoing concern for some Members of Congress, the agency itself, industry, and public interest groups. Attempts historically, prior to the enactment of PRIA 1, to defray the increased costs of administering the pesticide program by modifying existing pesticide fee requirements through regulation and proposed legislation have been viewed by some as not being entirely successful. The Pesticide Registration Improvement Extension Act

¹³³ For updated information on EPA's schedule for opening dockets to begin pesticide registration reviews, see http://www.epa.gov/oppsrrd1/registration_review/explanation.htm.

¹³⁴ See "Maintenance Fees—Pesticide Reevaluation Programs," in EPA's *Implementing the Pesticide Registration Improvement Act - Fiscal Year 2012*, March 1, 2013, http://www.epa.gov/pesticides/fees/2012annual_report/accomp-reevaluation-fy2012.pdf.

¹³⁵ See EPA's website "Pesticides: Registration Review—Program Highlights," at http://www.epa.gov/oppsrrd1/registration_review/highlights.htm.

¹³⁶ "Registration Review: Schedule for Beginning Reviews—2012 to 2015," http://www.epa.gov/oppsrrd1/registration_review/schedule.htm.

¹³⁷ See footnote 136.

of 2012 (PRIA 3; P.L. 112-177), enacted September 28, 2012, reauthorized and revised fee provisions under the Pesticide Registration Improvement Renewal Act (PRIA 2; P.L. 110-94), enacted October 9, 2007, and its predecessor, the Pesticide Registration Improvement Act (PRIA 1; P.L. 108-199), enacted January 23, 2004. Under PRIA 3, authority to collect registration service fees and maintenance fees ends at the end of FY2017, with phase-out authority at reduced levels for registration service fees through FY2019 (reduced by 40% during FY2018 and 70% during FY2019).¹³⁸

PRIA 3 and its predecessors, PRIA 1 and PRIA 2, were enacted to help address several key issues and concerns regarding delays and complexities associated with EPA's pesticide registration reviews. Most notably, EPA has reported that the PRIA 1 and PRIA 2 provisions requiring specific decision process and schedule reforms, in conjunction with increased fee revenues, have led to more timely completion of certain registration applications and the completion of the reregistration reviews. A coalition of industry stakeholder organizations and health and environmental advocacy groups confirm that advancements have been made and supported the enactment of PRIA 3.¹³⁹ The prescriptive detailed schedules for the service fees included in PRIA 1 and PRIA 2, and as modified in PRIA 3, are widely deemed more commensurate with the specific EPA actions required than previous legislative provisions related to registration and tolerance fees, which were more generic. Many have noted that the implementation of PRIA 1 and PRIA 2 resulted in improved efficiencies in the overall process, including the completion of reregistration decisions and the reevaluation of older tolerances of those pesticides registered prior to 1988.

It is anticipated that PRIA 3's even more prescriptive fee schedule, including additional and consolidated fee categories and subcategories, will likely result in further efficiencies of the processing of registration applications. EPA, and some Members of Congress and stakeholders also expect that other refinements to certain pesticide fee provisions in PRIA 3 will potentially provide further stability for resource planning purposes that had been lacking historically prior to PRIA 1.

EPA has reported progress in developing process improvements and meeting shortened registration review deadlines during PRIA 1 (PRIA 1 became effective March 23, 2004) and that refinements and improvements continued under PRIA 2. Sustained improvement in the efficiency of EPA's decision-making process with the enactment of PRIA 3 is dependent on the agency's ability to continue to establish and effectively implement reforms while maintaining the protection of human health and the environment required by the statutes. EPA continuously develops and refines its scientific protocols and guidelines with input from stakeholders and the scientific community through various public forums.¹⁴⁰ However, as past experience has shown, this can be a complex and time-consuming undertaking, affected by uncertainties and advances in technology that could enhance or inhibit further acceleration of the pesticide review process.

¹³⁸ 7 U.S.C. §136w-8(m).

¹³⁹ See footnote 30. See also National Resources Defense Council, September 24, 2012, Press Release, <http://www.nrdc.org/media/2007/070924.asp>; CropLife America September 14, 2012, Press Releases, <http://www.croplifeamerica.org/news/cla>; Consumer Specialty Products Association (CSPA) September 13 and 28, 2012, Press Releases, <http://www.cspa.org/news-media-center/news-releases/>.

¹⁴⁰ Examples of EPA advisory workgroups and committees for pesticide science and procedural issues are available at <http://www.epa.gov/pesticides/science/committees.htm>.

Appendix. Chronology of FIFRA and FFDCA Pesticide Fee Collection Authority

Table A-1 below provides a time line of key pesticide fee authorities and implementation regulations; the following sections provide a brief description of these actions.

Table A-1. Time Line of Key Legislation and Regulation Regarding Pesticide Fees

Year	Legislation/Regulation	Pesticide Fee Authority/Action
1952	Independent Appropriations Act of 1952 (IOAA; 31 U.S.C. §9701)	Authorized the head of each agency to prescribe regulations establishing a charge for a service or thing of value provided by the agency.
1954	Federal Food Drug and Cosmetic Act, amended (FFDCA; P.L. 518, 21 U.S.C. §346 [a])	Authorized fees to accompany initial or modified petitions for establishing tolerances under FFDCA §408 (o).
1986	EPA Registration Fee Regulation: Proposed (51 <i>Federal Register</i> 42974, Nov. 26, 1986)	Proposed a schedule of fees to accompany pesticide registration and experimental use permit applications, citing the authority of IOAA.
1988	EPA Registration Fee: Final Regulation (40 C.F.R. 152[u] and 40 C.F.R. 172)	Established fees to accompany pesticide registration and experimental use permit applications; authority suspended by the FIFRA amendments passed later that same year (1988).
	Federal Insecticide, Fungicide and Rodenticide Act, amended (FIFRA; P.L. 100-532), enacted Oct. 25, 1988	Authorized reregistration and expedited processing fund: a one-time “reregistration” fee and annual “maintenance” fees through FY1997. Prohibited collection of other fees (including “registration fees” as defined in 40 C.F.R. 152[u] and 40 C.F.R. 172).
1996	Food Quality Protection Act of 1996: FIFRA and FFDCA, amended (FQPA; P.L. 104-170), enacted Aug. 3, 1996	Extended authorization for maintenance fees through FY2001. FFDCA authority (§408[m]) amended to cover costs of all tolerance activities and directs EPA to deposit funds collected as maintenance fees to be used for reassessing existing tolerances as needed. Prohibits collection of registration fees as defined in 40 C.F.R. 152(u) and 40 C.F.R. 172 through FY2001.
1999	EPA Tolerance Fee Rule: Proposed (64 <i>Federal Register</i> 31039-31050, June 9, 1999)	Proposed establishment of a tenfold increase in existing tolerance fees and new “tolerance reassessment” fees, including fee for reviewing tolerances for inert ingredients. Fees, to be collected retroactively from 1996, would supplement authorized maintenance fees.
	FY2001 EPA Appropriations (P.L. 106-74), enacted Oct. 20, 1999	Prohibited promulgation of a final tolerance fee rule based on EPA’s 1999 proposal.
2000	FY2000 EPA Appropriations (P.L. 106-377), enacted Oct. 27, 2000	Continued prohibition on promulgation of a final tolerance fee rule as proposed in 1999.
2001	FY2002 EPA Appropriations (P.L. 107-73), enacted Nov. 26, 2001	Continued the prohibition on promulgation of a final tolerance fee rule based on the 1999 proposal and on collection of registration fees as codified in 1988. Maintenance fees reauthorized and aggregate limit increased.

Year	Legislation/Regulation	Pesticide Fee Authority/Action
2002	Farm Security Act (P.L. 107-171), enacted May 13, 2002	Senate-proposed pesticide fee authorities considered and deleted in Conference. Conferees questioned the legal basis for EPA's June 9, 1999, proposed rule (64 FR 31039) to collect tolerance fees retroactively and encouraged EPA to withdraw the proposal. (H.Rept. 107-424).
2002-2003	EPA Appropriations: FY2003 (P.L. 108-10), enacted Mar. 11, 2003, and FY2004 Continuing Resolution through Jan. 31, 2004 (P.L. 108-135), enacted Nov. 22, 2003	Prohibited promulgation of a final tolerance fee rule based on the 1999 proposal. Continued prohibition of the collection of registration fees as codified in 1988. Maintenance fees reauthorized; maximum aggregate levels increased.
	S. 1664 and H.R. 3188, proposed; the basis for PRIA 1 provisions later included in the FY2004 Consolidated Appropriations Bill (P.L. 108-199), enacted Jan. 23, 2004	Would have authorized new a registration service fee, reauthorized maintenance fees, required pesticide regulation process reforms, and prohibited collection of tolerance fees.
2004	FY2004 Consolidated Appropriations Act (P.L. 108-199; Division G, Title V), enacted Jan. 23, 2004	Authorized new registration "service" fee, reauthorizes maintenance fees, requires pesticide regulation process reforms, and prohibits the collection of tolerance fees.
	FY2005 Consolidated Appropriations Act (P.L. 108-447), enacted Dec. 8, 2004	Provided continued authorization for the collection of pesticide fees during FY2005 pursuant to P.L. 108-199.
2005	FY2005 supplemental appropriations for military funding (P.L. 109-13, §6033) enacted May 11, 2005	Banned EPA from going forward with rulemaking for collecting pesticide tolerance fees as prohibited by PRIA.
2006	Interior, Environment, and Related Agencies Appropriations ^a Act for FY2006 (P.L. 109-54), enacted Aug. 25, 2005	Provided continued authorization for the collection of pesticide fees during FY2006 pursuant to P.L. 108-199.
2007	Revised Continuing Appropriations Resolution for FY2007 (P.L. 110-5, H.J.Res. 20), enacted Feb. 15, 2007 ^a	Provided continued authorization for the collection of pesticide fees during FY2007 pursuant to P.L. 108-199, by providing funding under the authority, conditions, and limitations provided in the applicable appropriations Act for FY2006 (P.L. 109-54).
	S. 1983, introduced Aug. 2, 2007, basis for PRIA 2 became P.L. 110-94, enacted Oct. 9, 2007	Reauthorized, with some modification, PRIA 1 as enacted Jan. 23, 2004, in the FY2004 Consolidated Appropriations Bill (P.L. 108-199; Div. G, Title V).
	FY2008 Consolidated Appropriations Act (P.L. 110-161; Division F, Title II), enacted Dec. 26, 2007	Provided continued authorization for the collection of pesticide fees during FY2008 pursuant to P.L. 110-94 (7 U.S.C. §136w-8(c)(4)(A)).
2008	Consolidated Security, Disaster Assistance, and Continuing Appropriations Act, 2009 (P.L. 110-329), Division A, Continuing Appropriations Resolution, 2009, enacted Sept. 30, 2008	Generally extended funding for accounts in the Interior, Environment, and Related Agencies Appropriations bill at the amounts provided in the FY2008 regular appropriations law. Funds were available under the terms and conditions provided in that FY2008 law, except where otherwise specified.
2009	Omnibus Appropriations Act, 2009 (P.L. 111-8; Division E, Title II), enacted Mar. 11, 2009	Provided continued authorization for the collection of pesticide fees during FY2009 pursuant to P.L. 110-94 (7 U.S.C. §136w-8(c)(4)(A)).

Year	Legislation/Regulation	Pesticide Fee Authority/Action
	Interior Department and Furthering Continuing Appropriations for 2010 (P.L. 111-88; Division A is the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2010), enacted Oct. 30, 2009	Provided continued authorization for the collection of pesticide fees during FY2010 pursuant to P.L. 110-94 (7 U.S.C. §136w-8(c)(4)(A)).
2010-2011	Department of Defense and Full-Year Continuing Appropriations Act, 2011, Section 1104 in Title I of Division B in P.L. 112-10, enacted Apr. 15, 2011 (Note: Prior to the enactment of P.L. 112-10, a series of temporary continuing resolutions (CRs) had been enacted that sequentially extended funding from October 1, 2010, through April 15, 2011; under these CRs EPA and the other federal agencies usually included within the Interior, Environment, and Related Agencies appropriations generally were operating under the terms and conditions contained in the FY2010 appropriations law P.L. 111-88, with some exceptions)	Provided continued authorization for the collection of pesticide fees during FY2011 pursuant to FY2010 P.L. 111-88, Division A. (For EPA, under Section 1101(a)(4) and Section 1104 in Title I of Division B in P.L. 112-10, unless otherwise expressly provided in Division B of the act, "... requirements, authorities, conditions, limitations, and other provisions ..." in P.L. 111-88, Division A, shall continue in effect through the end of FY2011).
	Consolidated Appropriations Act, 2012 (P.L. 112-74; H.R. 2055) (Title II of Division B), enacted Dec. 23, 2011	Provided continued authorization for the collection of pesticide fees during FY2012 pursuant to P.L. 110-94 (7 U.S.C. §136w-8(c)(4)(A)).
2012	S. 3552 introduced Sept. 13, 2012, became the Pesticide Registration Improvement Extension Act 2012 (P.L. 112-177), or PRIA 3, enacted Sept. 28, 2012	Reauthorizes through FY2017, with some modification, PRIA 1 as enacted Jan. 23, 2004, and PRIA 2 as enacted Oct. 9, 2007. Also includes authorization to collect maintenance fees at reduced levels for FY2018 and FY2019.

Source: Prepared by the Congressional Research Service from the relevant laws and *Federal Register* notices.

- a. During the first session of the 109th Congress, the House and Senate Appropriations Committees reorganized their subcommittees, including placing EPA's appropriation under the Interior subcommittee after eliminating the VA-HUD and Independent Agencies subcommittee.

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