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## The Pesticide Registration Improvement Extension Act of 2018 (PRIA 4; P.L. 116-8): Authorization to Collect Fees

Pursuant to the Pesticide Registration Improvement Extension Act of 2018 (PRIA 4; P.L. 116-8), Congress authorized the U.S. Environmental Protection Agency (EPA) to collect and use two types of fees to enhance and accelerate the agency's pesticide registration program and related activities. Without reauthorization of these authorities, EPA's authority to collect one type of fee—*pesticide maintenance fees*—terminates at the end of FY2023, while the authority to collect the other type of fee—*pesticide registration service fees*—begins to phase out at the end of FY2023.

### Background

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

Since 1954, Congress has authorized the collection of different types of fees to partially defray various costs related to federal pesticide regulation activities. (Appropriations fund the remainder of the costs.) The Pesticide Registration Improvement Act of 2003 (PRIA 1; P.L. 108-199, Division G, Title V) established the current pesticide fee framework in 2004. The Pesticide Registration Improvement Renewal Act (PRIA 2; P.L. 110-94), the Pesticide Registration Improvement Extension Act of 2012 (PRIA 3; P.L. 112-177), and PRIA 4 made amendments to this framework.

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 PRIA 1 modified provisions originally enacted in 1988 that authorized the collection and use of maintenance fees to enhance and accelerate a one-time EPA review of pesticide registrations that the agency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

outlining the fee amounts associated with specific activities (the fee schedule is printed in *Congressional Record*, September 7, 2003, pp. S11631-S11633) and required EPA to complete its review within a specific time frame for each category of applications if EPA collected the fee.

PRIA 2 and PRIA 3 reauthorized and amended the pesticide fee framework. PRIA 2 and PRIA 3 added new categories of applications for which registration service fees may be assessed, revised the schedule of time frames in which EPA is required to make a decision on an application, and adjusted the fee amounts for both maintenance and registration service fees. The updated fee schedule for PRIA 2 is printed in *Congressional Record*, July 31, 2007, pp. S10409-S10411, while PRIA 3 included the fee schedule in statute.

With PRIA 4, Congress reauthorized and further amended the pesticide fee framework. The following two sections summarize current provisions regarding maintenance fees and registration service fees.

### Pesticide Maintenance Fees

Under current law, the authority to collect pesticide maintenance fees terminates on September 30, 2023.

FIFRA Section 4 (7 U.S.C. §136a-1), as amended, sets annual maximum maintenance fees per registrant generally based on the number of registrations held. Section 4 provides "small business" waivers and fee reductions and exemptions for certain *public health pesticides*. FIFRA Section 2(nn) defines *public health pesticide* as a minor use pesticide product registered for use and used predominantly in public health programs for vector control or for other recognized health protection uses. Congress also limited EPA to collecting an average amount of aggregate maintenance fees annually (\$31.0 million per fiscal year) from FY2019 through FY2023. Nonpayment of maintenance fees can result in the cancellation of associated pesticide registrations. EPA orders to cancel pesticide registrations due to nonpayment of maintenance fees are published in the *Federal Register*. See, for example, 87 *Federal Register* 10200, February 23, 2022.

Collected maintenance fees are deposited as receipts in the "Reregistration and Expedited Processing Fund" in the U.S. Treasury. These fees are made available to EPA as mandatory appropriations for offsetting costs associated with (1) evaluating inert ingredients and expedited processing of certain applications within specified statutory time frames, (2) reevaluating registered pesticides through registration review (including reviews associated with Endangered Species Act consultations), (3) tracking and

implementing registration review decisions, and (4) implementing information system capabilities to improve the tracking of pesticide registration decisions. Additionally, EPA is directed to use a portion of the fund annually for specific set-asides, including not more than \$500,000 annually between FY2018 and FY2023 for developing product performance data requirements to evaluate products claiming efficacy against certain invertebrate pests (e.g., bed bugs, crawling insects, flying insects, pet pests, and fire ants) of significant public health or economic importance, and not more than \$500,000 annually between FY2018 and FY2023 to enhance the good laboratory practices standards compliance monitoring program established under 40 C.F.R. Part 160.

## Pesticide Registration Service Fees

Under current law, the authority to collect registration service fees begins to phase out starting at the end of FY2023 with EPA having authority to collect fees at reduced levels through FY2025—reduced by 40% during FY2024 and 70% during FY2025. After FY2025, the authority to collect registration service fees expires.

FIFRA Section 33 (7 U.S.C. §136w-8), as amended, sets registration service fee amounts that EPA is authorized to assess depending on the application submitted and which requisite action the applicant requests out of 212 specific actions identified in a series of tables. Section 33 requires EPA to complete review of the requested action within deadlines associated with each category of action. Section 33 provides “small business” fee reductions, and EPA may exempt from or waive a portion of the registration service fee for an application for “minor uses” of a pesticide. Section 33 exempts certain applications involving tolerance setting in the “public interest” and federal and state governmental entities from registration service fees.

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

- covering costs associated with the review and decisionmaking of applications received with the payment of the applicable registration service fee;
- enhancing scientific and regulatory activities related to worker protection;
- awarding partnership grants (\$500,000 in aggregate annually from FY2013 through FY2023); and
- carrying out a pesticide safety education program (\$500,000 annually from FY2013 through FY2023).

FIFRA Section 33 prohibits EPA from assessing registration service fees if the amount of congressional appropriations for specified functions conducted by the EPA Office of Pesticide Programs (OPP) (excluding any fees appropriated) is less than the corresponding FY2012

appropriation (\$128.3 million). The amount of congressional appropriations for the specified functions are split among program areas and activities within 3 of EPA’s 10 appropriations accounts—Science and Technology, Environmental Programs and Management, and State and Tribal Assistance Grants accounts. For FY2013 through FY2022, appropriation acts have provided for EPA assessment of registration service fees notwithstanding the conditional provision that appropriated funds be no less than FY2012 levels. EPA expects to collect approximately \$20.0 million in registration service fees during FY2022.

## Accounting, Auditing, and Reporting

FIFRA requires the EPA Inspector General to audit the Reregistration and Expedited Processing Fund and Pesticide Registration Fund in accordance with the Chief Financial Officers Act of 1990 (P.L. 101-576), as amended, and submit the findings and recommendations of the audit to EPA and certain congressional committees. In December 2021, EPA Office of the Inspector General issued its audit of the Reregistration and Expedited Processing Fund for FY2019 and FY2020 (Report No. 22-F-0012) and the Pesticide Registration Fund for FY2019 and FY2020 (Report No. 22-F-0014).

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

## Administration Proposal and Potential Reauthorization

The President’s FY2023 budget request proposed to expand the activities for which collected fees may be used, such as “processing and review of submitted data, laboratory support and audits, and rulemaking support.” Currently, costs associated with these other activities are supported by annual appropriations and not fee collections.

If Congress were to consider PRIA reauthorization, the following topics may be of interest based on the debate of prior PRIAs:

- amounts that EPA would be authorized to collect from maintenance fees and registration service fees and the pesticide-related activities that collected fees would be authorized to fund;
- extent to which maintenance fees and registration service fees fund pesticide program activities in annual appropriations;
- waivers and reductions of fees for “small business” entities; and
- increased flexibility for EPA to spend collected registration service fees (specifically proposed in President’s FY2023 budget request).

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