

Attachment B

(5) MAINTENANCE FEE.— January 23, 2004 **51 FIFRA Sec. 4**

(A) IN GENERAL.—Subject to other provisions of this paragraph, each registrant of a pesticide shall pay an annual fee by January 15 of each year for each registration, except that no fee shall be charged for more than 200 registrations held by any registrant.

(B) In the case of a pesticide that is registered for a minor agricultural use, the Administrator may reduce or waive the payment of the fee imposed under this paragraph if the Administrator determines that the fee would significantly reduce the availability of the pesticide for the use.

(C) TOTAL AMOUNT OF FEES.—The amount of each fee prescribed under subparagraph (A) shall be adjusted by the Administrator to a level that will result in the collection under this paragraph of, to the extent practicable, an aggregate amount of— (i) for fiscal year 2004, \$26,000,000;

(ii) for fiscal year 2005, \$27,000,000; (iii) for fiscal year 2006, \$27,000,000; (iv) for fiscal year 2007, \$21,000,000; and (v) for fiscal year 2008, \$15,000,000.

(D) MAXIMUM AMOUNT OF FEES FOR REGISTRANTS.—The maximum annual fee payable under this paragraph by— (i) ⁴⁻⁴ a registrant holding not more than 50 pesticide registrations shall be— (I) for fiscal year 2004, \$84,000;

(II) for each of fiscal years 2005 and 2006, \$87,000; (III) for fiscal year 2007, \$68,000; and (IV) for fiscal year 2008, \$55,000; and (ii) ⁴⁻⁵ a registrant holding over 50

registrations shall be— (I) for fiscal year 2004, \$145,000;

(II) for each of fiscal years 2005 and 2006, \$151,000; (III) for fiscal year 2007, \$117,000; and (IV) for fiscal year 2008, \$95,000. (E) MAXIMUM

AMOUNT OF FEES FOR SMALL BUSINESSES.— (i) IN GENERAL.—For

a small business, the maximum annual fee payable under this paragraph by— (I) a registrant holding not more than 50 pesticide registrations shall be—

(aa) for fiscal year 2004, \$59,000;

(bb) for each of fiscal years 2005 and 2006, \$61,000; (cc) for fiscal year 2007, \$48,000; and (dd) for fiscal year 2008, \$38,500; and

(II) a registrant holding over 50 pesticide registrations shall be—

(aa) for fiscal year 2004, \$102,000;

(bb) for each of fiscal years 2005 and 2006, \$106,000; (cc) for fiscal year 2007, \$82,000; and

⁺⁺Subclause margins are so in original (as added by sec. 501(c)(1)(B)(ii) of P.L. 108- 199). Probably should be further indented. ⁺⁺Subclause margins are so in original (as added by sec. 501(c)(1)(B)(iii) of P.L. 108- 199). Probably should be further indented.

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(dd) for fiscal year 2008, \$66,500. (ii)

DEFINITION OF SMALL BUSINESS.—

(I) IN GENERAL.—In clause (i), the term ‘small business’ means a corporation, partnership, or unincorporated business that

(aa) has 500 or fewer employees; and

(bb) during the 3-year period prior to the

most recent maintenance fee billing cycle, had an average annual global gross revenue from

pesticides that did not exceed \$60,000,000. (II) AFFILIATES.—

(aa) IN GENERAL.—In the case of a business entity with 1 or more affiliates, the gross revenue limit under subclause (I)(bb) shall

apply to the gross revenue for the entity and all of the affiliates of the entity, including parents and subsidiaries, if applicable.

(bb) AFFILIATED PERSONS.—For the purpose of item (aa), persons are

affiliates of each other if, directly or indirectly, either person controls or has the power to control the other person, or a third person controls or has the power to control both persons.

(CC) INDICIA OF CONTROL.—For the purpose of item (aa), indicia of control include interlocking management or ownership, identity of interests among family members, shared facilities and equipment, and common use of employees.

(F) The Administrator shall exempt any public health pesticide from the payment of the fee prescribed under paragraph (3) if, in consultation with the Secretary of Health and Humans⁴⁻⁶ Services, the Administrator determines, based on information supplied by the registrant, that the economic return to the registrant from sales of the pesticide does not support the registration or reregistration of the pesticide.

(G) If any fee prescribed by this paragraph with respect to the registration of a pesticide is not paid by a registrant by the time prescribed, the Administrator, by order and without hearing, may cancel the registration.

(H) The authority provided under this paragraph shall terminate on September 30, 2008.