

(h) COMPENSATION OF DATA SUBMITTER.—If data that are submitted by a registrant under subsection (d), (e), (f), or (g) are used to support the application of another person under section 3, the registrant who submitted such data shall be entitled to compensation for the use of such data as prescribed by section 3(c)(1)(D). In determining the amount of such compensation, the fees paid by the registrant under this section shall be taken into account.

(i) FEES.—

(1) MAINTENANCE FEE.—

(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 \$27,800,000 for each of fiscal years 2013 through 2017.

(D)⁴⁻⁴ MAXIMUM AMOUNT OF FEES FOR REGISTRANTS.—The maximum annual fee payable under this paragraph by—

(i) a registrant holding not more than 50 pesticide registrations shall be \$115,500 for each of fiscal years 2013 through 2017; and

(ii) a registrant holding over 50 registrations shall be \$184,800 for each of fiscal years 2013 through 2017.

(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 \$70,600 for each of fiscal years 2013 through 2017; and

(II) a registrant holding over 50 pesticide registrations shall be \$122,100 for each of fiscal years 2013 through 2017.

(ii) DEFINITION OF SMALL BUSINESS.—

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

⁴⁻⁴Title II of the Emergency Wartime Supplemental Appropriations Act, 2003, P.L. 108-11, 117 Stat. 603, provided that “Within 30 days of enactment of this Act, the Administrator of the Environmental Protection Agency shall adjust each ‘maximum annual fee payable’ pursuant to 7 U.S.C. 136a-1(i)(5)(D) and (E) in a manner such that maintenance fee collections made to reach the level authorized in division K of Public Law 108-7 shall be established in the same proportion as those maintenance fee collections authorized in Public Law 107-73.”

(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) FEE REDUCTION FOR CERTAIN SMALL BUSINESSES.—

(i) DEFINITION.—In this subparagraph, the term “qualified small business entity” means a corporation, partnership, or unincorporated business that—

(I) has 500 or fewer employees;

(II) during the 3-year period prior to the most recent maintenance fee billing cycle, had an average annual global gross revenue from all sources that did not exceed \$10,000,000; and

(III) holds not more than 5 pesticide registrations under this paragraph.

(ii) WAIVER.—Except as provided in clause (iii), the Administrator shall waive 25 percent of the fee under this paragraph applicable to the first registration of any qualified small business entity under this paragraph.

(iii) LIMITATION.—The Administrator shall not grant a waiver under clause (ii) to a qualified small business entity if the Administrator determines that the entity has been formed or manipulated primarily for the purpose of qualifying for the waiver.

(G) The Administrator shall exempt any public health pesticide from the payment of the fee prescribed under this paragraph if, in consultation with the Secretary of Health and Human 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.

(H) 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.

(I) The authority provided under this paragraph shall terminate on September 30, 2017.

(2) OTHER FEES.—Except as provided in section 33, during the period beginning on the date of enactment of this section [October 25, 1988] and ending on September 30, 2019, the Administrator may not levy any other fees for the registration of a pesticide under this Act except as provided in paragraph (1).

(j) EXEMPTION OF CERTAIN REGISTRANTS.—The requirements of subsections (d), (e), (f), and (i) (other than subsection (i)(1)) regarding data concerning an active ingredient and fees for review of such data shall not apply to any person who is the registrant of a pesticide to the extent that, under section 3(c)(2)(D), the person would not be required to submit or cite such data to obtain an initial registration of such pesticide.

(k) REREGISTRATION AND EXPEDITED PROCESSING FUND.—

(1) ESTABLISHMENT.—There shall be established in the Treasury of the United States a reregistration and expedited processing fund which shall be known as the Reregistration and Expedited Processing Fund.⁴⁻⁵

(2)⁴⁻⁶ SOURCE AND USE.—

(A) All moneys derived from fees collected by the Administrator under subsection (i) shall be deposited in the fund and shall be available to the Administrator, without fiscal year limitation, specifically to offset the costs of reregistration and expedited processing of the applications specified in paragraph (3), to enhance the information systems capabilities to improve the tracking of pesticide registration decisions, and to offset the costs of registration review under section 3(g). Such moneys derived from fees may not be expended in any fiscal year to the extent such moneys derived from fees would exceed money appropriated for use by the Administrator and expended in such year for such costs of reregistration and expedited processing of such applications. The Administrator shall, prior to expending any such moneys derived from fees—

(i) effective October 1, 1997, adopt specific and cost accounting rules and procedures as approved by the General Accounting Office [General Accountability Office] and the Inspector General of the Environmental Protection Agency to ensure that moneys derived from fees are allocated solely to the costs of reregistration and expedited processing of the applications specified in paragraph (3), to enhance the information systems capabilities to improve the tracking of

⁴⁻⁵ Sec. 501(b) of P.L. 104-170 amended sec. 4(k)(1) (7 U.S.C. 136a-1(k)(1)) by inserting "which shall be known as the Reregistration and Expedited Processing Fund", without specifying the Act that was being amended. The amendment was executed to this Act to effectuate the probable intent of Congress.

⁴⁻⁶ Sec. 501(c) of P.L. 104-170 amended sec. 4(k)(2) (7 U.S.C. 136a-1(k)(2)) to read as provided above, without specifying the Act that was being amended. The amendment was executed to this Act to effectuate the probable intent of Congress.