

mitted to the Environmental Protection Agency.

(b) The Office of Pesticide Programs shall prepare a public report concerning the progress made on the registration of minor uses, including implementation of the exclusive use as an incentive for registering new minor uses, within 3 years of the passage of the Food Quality Protection Act of 1996.

(June 25, 1947, ch. 125, §31, as added Pub. L. 104-170, title II, §210(i), Aug. 3, 1996, 110 Stat. 1500.)

#### REFERENCES IN TEXT

The passage of the Food Quality Protection Act of 1996, referred to in subsec. (b), probably means the date of enactment of Pub. L. 104-170, which was approved Aug. 3, 1996.

#### PRIOR PROVISIONS

A prior section 31 of act June 25, 1947, ch. 125, was renumbered section 35 and is classified to section 136y of this title.

### § 136w-7. Department of Agriculture minor use program

#### (a) In general

The Secretary of Agriculture (hereinafter in this section referred to as the “Secretary”) shall assure the coordination of the responsibilities of the Department of Agriculture related to minor uses of pesticides, including—

- (1) carrying out the Inter-Regional Project Number 4 (IR-4) as described in section 450i of this title and the national pesticide resistance monitoring program established under section 1651<sup>1</sup> of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5882);
- (2) supporting integrated pest management research;
- (3) consulting with growers to develop data for minor uses; and
- (4) providing assistance for minor use registrations, tolerances, and reregistrations with the Environmental Protection Agency.

#### (b) Minor use pesticide data and revolving fund

##### (1) Minor use pesticide data

###### (A) Grant authority

The Secretary, in consultation with the Administrator, shall establish a program to make grants for the development of data to support minor use pesticide registrations and reregistrations. The amount of any such grant shall not exceed ½ of the cost of the project for which the grant is made.

###### (B) Applicants

Any person who wants to develop data to support minor use pesticide registrations and reregistrations may apply for a grant under subparagraph (A). Priority shall be given to an applicant for such a grant who does not directly receive funds from the sale of pesticides registered for minor uses.

###### (C) Data ownership

Any data that is developed under a grant under subparagraph (A) shall be jointly

owned by the Department of Agriculture and the person who received the grant. Such a person shall enter into an agreement with the Secretary under which such person shall share any fee paid to such person under section 136a(c)(1)(F) of this title.

#### (2) Minor Use Pesticide Data Revolving Fund

##### (A) Establishment

There is established in the Treasury of the United States a revolving fund to be known as the Minor Use Pesticide Data Revolving Fund. The Fund shall be available without fiscal year limitation to carry out the authorized purposes of this subsection.

##### (B) Contents of the Fund

There shall be deposited in the Fund—

- (i) such amounts as may be appropriated to support the purposes of this subsection; and
- (ii) fees collected by the Secretary for any data developed under a grant under paragraph (1)(A).

##### (C) Authorizations of appropriations

There are authorized to be appropriated for each fiscal year to carry out the purposes of this subsection \$10,000,000 to remain available until expended.

(June 25, 1947, ch. 125, §32, as added Pub. L. 104-170, title II, §210(j), Aug. 3, 1996, 110 Stat. 1501.)

#### REFERENCES IN TEXT

Section 1651 of the Food, Agriculture, Conservation, and Trade Act of 1990, referred to in subsec. (a)(1), was classified to section 5882 of this title prior to repeal by Pub. L. 104-127, title VIII, §862(a), Apr. 4, 1996, 110 Stat. 1174.

### § 136w-8. Pesticide registration service fees

#### (a) Definition of costs

In this section, the term “costs”, when used with respect to review and decisionmaking pertaining to an application for which registration service fees are paid under this section, means—

(1) costs to the extent that—

(A) officers and employees provide direct support for the review and decisionmaking for covered pesticide applications, associated tolerances, and corresponding risk and benefits information and analyses;

(B) persons and organizations under contract with the Administrator engage in the review of the applications, and corresponding risk and benefits information and assessments; and

(C) advisory committees and other accredited persons or organizations, on the request of the Administrator, engage in the peer review of risk or benefits information associated with covered pesticide applications;

(2) costs of management of information, and the acquisition, maintenance, and repair of computer and telecommunication resources (including software), used to support review of pesticide applications, associated tolerances, and corresponding risk and benefits information and analyses; and

(3) costs of collecting registration service fees under subsections (b) and (c) of this sec-

<sup>1</sup> See References in Text note below.

tion and reporting, auditing, and accounting under this section.

**(b) Fees**

**(1) In general**

Effective beginning on the effective date of the Pesticide Registration Improvement Act of 2003, the Administrator shall assess and collect covered pesticide registration service fees in accordance with this section.

**(2) Covered pesticide registration applications**

**(A) In general**

An application for the registration of a pesticide covered by this subchapter that is received by the Administrator on or after the effective date of the Pesticide Registration Improvement Act of 2003 shall be subject to a registration service fee under this section.

**(B) Existing applications**

**(i) In general**

Subject to clause (ii), an application for the registration of a pesticide that was submitted to the Administrator before the effective date of the Pesticide Registration Improvement Act of 2003 and is pending on that effective date shall be subject to a service fee under this section if the application is for the registration of a new active ingredient that is not listed in the Registration Division 2003 Work Plan of the Office of Pesticide Programs of the Environmental Protection Agency.

**(ii) Tolerance or exemption fees**

The amount of any fee otherwise payable for an application described in clause (i) under this section shall be reduced by the amount of any fees paid to support the related petition for a pesticide tolerance or exemption under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.).

**(C) Documentation**

An application subject to a registration service fee under this section shall be submitted with documentation certifying—

- (i) payment of the registration service fee; or
- (ii) payment of at least 25 percent of the registration service fee and a request for a waiver from or reduction of the remaining amount of the registration service fee.

**(D) Payment**

The registration service fee required under this subsection shall be due upon submission of the application.

**(E) Applications subject to additional fees**

An application may be subject to additional fees if—

- (i) the applicant identified the incorrect registration service fee and decision review period;
- (ii) after review of a waiver request, the Administrator denies the waiver request; or
- (iii) after review of the application, the Administrator determines that a different

registration service fee and decision review period apply to the application.

**(F) Effect of failure to pay fees**

The Administrator shall reject any application submitted without the required registration service fee.

**(G) Non-refundable portion of fees**

**(i) In general**

The Administrator shall retain 25 percent of the applicable registration service fee.

**(ii) Limitation**

Any waiver, refund, credit or other reduction in the registration service fee shall not exceed 75 percent of the registration service fee.

**(H) Collection of unpaid fees**

In any case in which the Administrator does not receive payment of a registration service fee (or applicable portion of the registration service fee) by the date that is 30 days after the fee is due, the fee shall be treated as a claim of the United States Government subject to subchapter II of chapter 37 of title 31.

**(3) Schedule of covered applications and registration service fees**

**(A) In general**

Not later than 30 days after the effective date of the Pesticide Registration Improvement Renewal Act, the Administrator shall publish in the Federal Register a schedule of covered pesticide registration applications and corresponding registration service fees.

**(B) Report**

Subject to paragraph (6), the schedule shall be the same as the applicable schedule appearing in the Congressional Record on pages S10409 through S10411, dated July 31, 2007.

**(4) Pending pesticide registration applications**

**(A) In general**

An applicant that submitted a registration application to the Administrator before the effective date of the Pesticide Registration Improvement Act of 2003, but that is not required to pay a registration service fee under paragraph (2)(B), may, on a voluntary basis, pay a registration service fee in accordance with paragraph (2)(B).

**(B) Voluntary fee**

The Administrator may not compel payment of a registration service fee for an application described in subparagraph (A).

**(C) Documentation**

An application for which a voluntary registration service fee is paid under this paragraph shall be submitted with documentation certifying—

- (i) payment of the registration service fee; or
- (ii) a request for a waiver from or reduction of the registration service fee.

**(5) Resubmission of pesticide registration applications**

If a pesticide registration application is submitted by a person that paid the fee for the ap-

plication under paragraph (2), is determined by the Administrator to be complete, and is not approved or is withdrawn (without a waiver or refund), the submission of the same pesticide registration application by the same person (or a licensee, assignee, or successor of the person) shall not be subject to a fee under paragraph (2).

**(6) Fee adjustment**

**(A) In general**

Effective for a covered pesticide registration application received during the period beginning on October 1, 2008, and ending on September 30, 2010, the Administrator shall increase by 5 percent the registration service fee payable for the application under paragraph (3).

**(B) Additional adjustment**

Effective for a covered pesticide registration application received on or after October 1, 2010, the Administrator shall increase by an additional 5 percent the registration service fee in effect as of September 30, 2010.

**(C) Publication**

The Administrator shall publish in the Federal Register the revised registration service fee schedules.

**(7) Waivers and reductions**

**(A) In general**

An applicant for a covered pesticide registration may request the Administrator to waive or reduce the amount of a registration service fee payable under this section under the circumstances described in subparagraphs (D) through (G).

**(B) Documentation**

**(i) In general**

A request for a waiver from or reduction of the registration service fee shall be accompanied by appropriate documentation demonstrating the basis for the waiver or reduction.

**(ii) Certification**

The applicant shall provide to the Administrator a written certification, signed by a responsible officer, that the documentation submitted to support the waiver or reduction request is accurate.

**(iii) Inaccurate documentation**

An application shall be subject to the applicable registration service fee payable under paragraph (3) if, at any time, the Administrator determines that—

(I) the documentation supporting the waiver or reduction request is not accurate; or

(II) based on the documentation or any other information, the waiver or reduction should not have been granted or should not be granted.

**(C) Determination to grant or deny request**

As soon as practicable, but not later than 60 days, after the date on which the Administrator receives a request for a waiver or reduction of a registration service fee under this paragraph, the Administrator shall—

(i) determine whether to grant or deny the request; and

(ii) notify the applicant of the determination.

**(D) Minor uses**

**(i) In general**

The Administrator may exempt from, or waive a portion of, the registration service fee for an application for minor uses for a pesticide.

**(ii) Supporting documentation**

An applicant requesting a waiver or exemption under this subparagraph shall provide supporting documentation that demonstrates, to the satisfaction of the Administrator, that anticipated revenues from the uses that are the subject of the application would be insufficient to justify imposition of the full application fee.

**(E) IR-4 exemption**

The Administrator shall exempt an application from the registration service fee if the Administrator determines that—

(i) the application is solely associated with a tolerance petition submitted in connection with the Inter-Regional Project Number 4 (IR-4) as described in section 450i(e) of this title; and

(ii) the exemption is in the public interest.

**(F) Small businesses**

**(i) In general**

The Administrator shall waive 50 percent of the registration service fees payable by an entity for a covered pesticide registration application under this section if the entity is a small business (as defined in section 136a-1(i)(5)(E)(ii) of this title) at the time of application.

**(ii) Waiver of fees**

The Administrator shall waive 75 percent of the registration service fees payable by an entity under this section if the entity—

(I) is a small business (as defined in section 136a-1(i)(5)(E)(ii) of this title) at the time of application; and

(II) has average annual global gross revenues described in section 136a-1(i)(5)(E)(ii)(I)(bb) of this title that does not exceed \$10,000,000, at the time of application.

**(iii) Formation for waiver**

The Administrator shall not grant a waiver under this subparagraph if the Administrator determines that the entity submitting the application has been formed or manipulated primarily for the purpose of qualifying for the waiver.

**(iv) Documentation**

An entity requesting a waiver under this subparagraph shall provide to the Administrator—

(I) documentation demonstrating that the entity is a small business (as defined in section 136a-1(i)(5)(E)(ii) of this title) at the time of application; and

(II) if the entity is requesting a waiver of 75 percent of the applicable.<sup>1</sup> registration service fees payable under this section, documentation demonstrating that the entity has an average annual global gross revenues<sup>2</sup> described in section 136a-1(i)(5)(E)(ii)(I)(bb) of this title that does not exceed \$10,000,000, at the time of application.

**(G) Federal and State agency exemptions**

An agency of the Federal Government or a State government shall be exempt from covered registration service fees under this section.

**(8) Refunds**

**(A) Early withdrawals**

If, during the first 60 days after the beginning of the applicable decision time review period under subsection (f)(3) of this section, a covered pesticide registration application is withdrawn by the applicant, the Administrator shall refund all but 25 percent.<sup>1</sup> of the total registration service fee payable under paragraph (3) for the application.

**(B) Withdrawals after the first 60 days of decision review time period**

**(i) In general**

If a covered pesticide registration application is withdrawn after the first 60 days of the applicable decision time review period, the Administrator shall determine what portion, if any, of the total registration service fee payable under paragraph (3) for the application may be refunded based on the proportion of the work completed at the time of withdrawal.

**(ii) Timing**

The Administrator shall—

(I) make the determination described in clause (i) not later than 90 days after the date the application is withdrawn; and

(II) provide any refund as soon as practicable after the determination.

**(C) Discretionary refunds**

**(i) In general**

In the case of a pesticide registration application that has been filed with the Administrator and has not been withdrawn by the applicant, but for which the Administrator has not yet made a final determination, the Administrator may refund a portion of a covered registration service fee if the Administrator determines that the refund is justified.

**(ii) Basis**

The Administrator may provide a refund for an application under this subparagraph—

(I) on the basis that, in reviewing the application, the Administrator has considered data submitted in support of another pesticide registration application; or

(II) on the basis that the Administrator completed portions of the review of the application before the effective date of this section.

**(D) Credited fees**

In determining whether to grant a refund under this paragraph, the Administrator shall take into account any portion of the registration service fees credited under paragraph (2) or (4).

**(c) Pesticide Registration Fund**

**(1) Establishment**

There is established in the Treasury of the United States a Pesticide Registration Fund to be used in carrying out this section (referred to in this section as the “Fund”), consisting of—

(A) such amounts as are deposited in the Fund under paragraph (2);

(B) any interest earned on investment of amounts in the Fund under paragraph (5); and

(C) any proceeds from the sale or redemption of investments held in the Fund.

**(2) Deposits in Fund**

Subject to paragraph (4), the Administrator shall deposit fees collected under this section in the Fund.

**(3) Expenditures from Fund**

**(A) In general**

Subject to subparagraphs (B) and (C) and paragraph (4), the Administrator may make expenditures from the Fund—

(i) to cover the costs associated with the review and decisionmaking pertaining to all applications for which registration service fees have been paid under this section; and

(ii) to otherwise carry out this section.

**(B) Worker protection**

**(i) In general**

For each of fiscal years 2008 through 2012, the Administrator shall use approximately  $\frac{1}{17}$  of the amount in the Fund (but not less than \$1,000,000) to enhance scientific and regulatory activities relating to worker protection.

**(ii) Partnership grants**

Of the amounts in the Fund, the Administrator shall use for partnership grants—

(I) for each of fiscal years 2008 and 2009, \$750,000; and

(II) for each of fiscal years 2010 through 2012, \$500,000.

**(iii) Pesticide safety education program**

Of the amounts in the Fund, the Administrator shall use \$500,000 for each of fiscal years 2008 through 2012 to carry out the pesticide safety education program.

**(4) Collections and appropriations Acts**

The fees authorized by this section and amounts deposited in the Fund—

(A) shall be collected and made available for obligation only to the extent provided in advance in appropriations Acts; and

<sup>1</sup> So in original. Period probably should not appear.

<sup>2</sup> So in original. Probably should be “revenue”.

(B) shall be available without fiscal year limitation.

**(5) Unused funds**

**(A) In general**

Amounts in the Fund not currently needed to carry out this section shall be—

- (i) maintained readily available or on deposit;
- (ii) invested in obligations of the United States or guaranteed by the United States; or
- (iii) invested in obligations, participations, or other instruments that are lawful investments for fiduciary, trust, or public funds.

**(B) Use of investment income**

After consultation with the Secretary of the Treasury, the Administrator may use income from investments described in clauses (ii) and (iii) of subparagraph (A) to carry out this section.

**(d) Assessment of fees**

**(1) Definition of covered functions**

In this subsection, the term “covered functions” means functions of the Office of Pesticide Programs of the Environmental Protection Agency, as identified in key programs and projects of the final operating plan for the Environmental Protection Agency submitted as part of the budget process for fiscal year 2002, regardless of any subsequent transfer of 1 or more of the functions to another office or agency or the subsequent transfer of a new function to the Office of Pesticide Programs.

**(2) Minimum amount of appropriations**

Registration service fees may not be assessed for a fiscal year under this section unless the amount of appropriations for salaries, contracts, and expenses for the functions (as in existence in fiscal year 2002) of the Office of Pesticide Programs of the Environmental Protection Agency for the fiscal year (excluding the amount of any fees appropriated for the fiscal year) are equal to or greater than the amount of appropriations for covered functions for fiscal year 2002 (excluding the amount of any fees appropriated for the fiscal year).

**(3) Use of fees**

Registration service fees authorized by this section shall be available, in the aggregate, only to defray increases in the costs associated with the review and decisionmaking for the review of pesticide registration applications and associated tolerances (including increases in the number of full-time equivalent positions in the Environmental Protection Agency engaged in those activities) over the costs for fiscal year 2002, excluding costs paid from fees appropriated for the fiscal year.

**(4) Compliance**

The requirements of paragraph (2) shall have been considered to have been met for any fiscal year if the amount of appropriations for salaries, contracts, and expenses for the functions (as in existence in fiscal year 2002) of the

Office of Pesticide Programs of the Environmental Protection Agency for the fiscal year (excluding the amount of any fees appropriated for the fiscal year) is not more than 3 percent below the amount of appropriations for covered functions for fiscal year 2002 (excluding the amount of any fees appropriated for the fiscal year).

**(5) Subsequent authority**

If the Administrator does not assess registration service fees under subsection (b) of this section during any portion of a fiscal year as the result of paragraph (2) and is subsequently permitted to assess the fees under subsection (b) of this section during the fiscal year, the Administrator shall assess and collect the fees, without any modification in rate, at any time during the fiscal year, notwithstanding any provisions of subsection (b) of this section relating to the date fees are to be paid.

**(e) Reforms to reduce decision time review periods**

To the maximum extent practicable consistent with the degrees of risk presented by pesticides and the type of review appropriate to evaluate risks, the Administrator shall identify and evaluate reforms to the pesticide registration process under this subchapter with the goal of reducing decision review periods in effect on the effective date of the Pesticide Registration Improvement Act of 2003 for pesticide registration actions for covered pesticide registration applications (including reduced risk applications).

**(f) Decision time review periods**

**(1) In general**

Not later than 30 days after the effective date of the Pesticide Registration Improvement Renewal Act, the Administrator shall publish in the Federal Register a schedule of decision review periods for covered pesticide registration actions and corresponding registration service fees under this subchapter.

**(2) Report**

The schedule shall be the same as the applicable schedule appearing in the Congressional Record on pages S10409 through S10411, dated July 31, 2007.

**(3) Applications subject to decision time review periods**

The decision time review periods specified in paragraph (1) shall apply to—

- (A) covered pesticide registration applications subject to registration service fees under subsection (b)(2) of this section;
- (B) covered pesticide registration applications for which an applicant has voluntarily paid registration service fees under subsection (b)(4) of this section; and
- (C) covered pesticide registration applications listed in the Registration Division 2003 Work Plan of the Office of Pesticide Programs of the Environmental Protection Agency.

**(4) Start of decision time review period**

**(A) In general**

Except as provided in subparagraphs (C), (D), and (E), in the case of a pesticide reg-

istration application accompanied by the registration service fee required under this section, the decision time review period begins 21 days after the date on which the Administrator receives the covered pesticide registration application.

**(B) Completeness of application**

**(i) In general**

Not later than 21 days after receiving an application and the required registration service fee, the Administrator shall conduct an initial screening of the contents of the application in accordance with clause (iii).

**(ii) Rejection**

If the Administrator determines under clause (i) that the application does not pass the initial screening and cannot be corrected within the 21-day period, the Administrator shall reject the application not later than 10 days after making the determination.

**(iii) Requirements of screening**

In conducting an initial screening of an application, the Administrator shall determine whether—

(I)(aa) the applicable registration service fee has been paid; or

(bb) at least 25 percent of the applicable registration service fee has been paid and the application contains a waiver or refund request for the outstanding amount and documentation establishing the basis for the waiver request; and

(II) the application contains all the necessary forms, data, and draft labeling, formatted in accordance with guidance published by the Administrator.

**(C) Applications with waiver or reduction requests**

**(i) In general**

In the case of an application submitted with a request for a waiver or reduction of registration service fees under subsection (b)(7) of this section, the decision time review period shall be determined in accordance with this subparagraph.

**(ii) Request granted with no additional fees required**

If the Administrator grants the waiver or reduction request and no additional fee is required, the decision time review period begins on the earlier of—

(I) the date on which the Administrator grants the request; or

(II) the date that is 60 days after the date of receipt of the application.

**(iii) Request granted with additional fees required**

If the Administrator grants the waiver or reduction request, in whole or in part, but an additional registration service fee is required, the decision time review period begins on the date on which the Administrator receives certification of payment of the applicable registration service fee.

**(iv) Request denied**

If the Administrator denies the waiver or reduction request, the decision time review period begins on the date on which the Administrator receives certification of payment of the applicable registration service fee.

**(D) Pending applications**

**(i) In general**

The start of the decision time review period for applications described in clause (ii) shall be the date on which the Administrator receives certification of payment of the applicable registration service fee.

**(ii) Applications**

Clause (i) applies to—

(I) covered pesticide registration applications for which voluntary fees have been paid under subsection (b)(4) of this section; and

(II) covered pesticide registration applications received on or after the effective date of the Pesticide Registration Improvement Act of 2003 but submitted without the applicable registration service fee required under this section due to the inability of the Administrator to assess fees under subsection (d)(1) of this section.

**(E) 2003 work plan**

In the case of a covered pesticide registration application listed in the Registration Division 2003 Work Plan of the Office of Pesticide Programs of the Environmental Protection Agency, the decision time review period begins on the date that is 30 days after the effective date of the Pesticide Registration Improvement Act of 2003.

**(5) Extension of decision time review period**

The Administrator and the applicant may mutually agree in writing to extend a decision time review period under this subsection.

**(g) Judicial review**

**(1) In general**

Any applicant adversely affected by the failure of the Administrator to make a determination on the application of the applicant for registration of a new active ingredient or new use for which a registration service fee is paid under this section may obtain judicial review of the failure solely under this section.

**(2) Scope**

**(A) In general**

In an action brought under this subsection, the only issue on review is whether the Administrator failed to make a determination on the application specified in paragraph (1) by the end of the applicable decision time review period required under subsection (f) of this section for the application.

**(B) Other actions**

No other action authorized or required under this section shall be judicially reviewable by a Federal or State court.

**(3) Timing****(A) In general**

A person may not obtain judicial review of the failure of the Administrator to make a determination on the application specified in paragraph (1) before the expiration of the 2-year period that begins on the date on which the decision time review period for the application ends.

**(B) Meeting with Administrator**

To be eligible to seek judicial review under this subsection, a person seeking the review shall first request in writing, at least 120 days before filing the complaint for judicial review, a decision review meeting with the Administrator.

**(4) Remedies**

The Administrator may not be required or permitted to refund any portion of a registration service fee paid in response to a complaint that the Administrator has failed to make a determination on the covered pesticide registration application specified in paragraph (1) by the end of the applicable decision review period.

**(h) Accounting**

The Administrator shall—

(1) provide an annual accounting of the registration service fees paid to the Administrator and disbursed from the Fund, by providing financial statements in accordance with—

(A) the Chief Financial Officers Act of 1990 (Public Law 101-576; 104 Stat. 2838) and amendments made by that Act; and

(B) the Government Management Reform Act of 1994 (Public Law 103-356; 108 Stat. 3410) and amendments made by that Act;

(2) provide an accounting describing expenditures from the Fund authorized under subsection (c) of this section; and

(3) provide an annual accounting describing collections and expenditures authorized under subsection (d) of this section.

**(i) Auditing****(1) Financial statements of agencies**

For the purpose of section 3515(c) of title 31, the Fund shall be considered a component of an executive agency.

**(2) Components**

The annual audit required under sections 3515(b) and 3521 of that title of the financial statements of activities under this section shall include an analysis of—

(A) the fees collected under subsection (b) of this section and disbursed;

(B) compliance with subsection (f) of this section;

(C) the amount appropriated to meet the requirements of subsection (d)(1) of this section; and

(D) the reasonableness of the allocation of the overhead allocation of costs associated with the review and decisionmaking pertaining to applications under this section.

**(3) Inspector General**

The Inspector General of the Environmental Protection Agency shall—

(A) conduct the annual audit required under this subsection; and

(B) report the findings and recommendations of the audit to the Administrator and to the appropriate committees of Congress.

**(j) Personnel levels**

All full-time equivalent positions supported by fees authorized and collected under this section shall not be counted against the agency-wide personnel level goals of the Environmental Protection Agency.

**(k) Reports****(1) In general**

Not later than March 1, 2005, and each March 1 thereafter through March 1, 2014, the Administrator shall publish an annual report describing actions taken under this section.

**(2) Contents**

The report shall include—

(A) a review of the progress made in carrying out each requirement of subsections (e) and (f) of this section, including—

(i) the number of applications reviewed, including the decision times for each application specified in subsection (f) of this section;

(ii) the number of label amendments that have been reviewed using electronic means;

(iii) the amount of money from the Registration and Expedited Processing Fund used to carry out inert ingredient review and review of similar applications under section 136a-1(k)(3) of this title;

(iv) the number of applications completed for identical or substantially similar applications under section 136a(c)(3)(B) of this title, including the number of such applications completed within 90 days pursuant to that section;

(v) the number of actions pending in each category of actions described in subsection (f)(3) of this section, as well as the number of inert ingredients;

(vi) to the extent determined appropriate by the Administrator and consistent with the authorities of the Administrator and limitations on delegation of functions by the Administrator, recommendations for—

(I) expanding the use of self-certification in all appropriate areas of the registration process;

(II) providing for accreditation of outside reviewers and the use of outside reviewers to conduct the review of major portions of applications;

(III) reviewing the scope of use of the notification process to cover broader categories of registration actions;

(IV) providing for electronic submission and review of labels, including process improvements to further enhance the procedures used in electronic label review; and

(V) the allowance and use of summaries of acute toxicity studies; and

(vii) the use of performance-based contracts, other contracts, and procurement to ensure that—

(I) the goals of this subchapter for the timely review of applications for registration are met; and

(II) the registration program is administered in the most productive and cost effective manner practicable;

(B) a description of the staffing and resources relating to the costs associated with the review and decisionmaking pertaining to applications;

(C) a review of the progress in meeting the timeline requirements of section 136a-1(g) of this title;

(D) a review of the progress in carrying out section 136a(g) of this title, including—

(i) the number of pesticides or pesticide cases reviewed;

(ii) a description of the staffing and resources relating to the costs associated with the review and decision making relating to reregistration and registration review for compliance with the deadlines specified in this subchapter;

(iii) to the extent determined appropriate by the Administrator and consistent with the authorities of the Administrator and limitations on delegation of functions by the Administrator, recommendations for—

(I) process improvements in the handling of registration review under section 136a(g) of this title;

(II) providing for accreditation of outside reviewers and the use of outside reviewers in the registration review process; and

(III) streamlining the registration review process, consistent with section 136a(g) of this title;

(E) a review of the progress in meeting the timeline requirements for the review of antimicrobial pesticide products under section 136a(h) of this title; and

(F) a review of the progress in carrying out the review of inert ingredients, including the number of applications pending, the number of new applications, the number of applications reviewed, staffing, and resources devoted to the review of inert ingredients and recommendations to improve the timeliness of review of inert ingredients.

### (3) Method

The Administrator shall publish a report required by this subsection by such method as the Administrator determines to be the most effective for efficiently disseminating the report, including publication of the report on the Internet site of the Environmental Protection Agency.

### (I) Savings clause

Nothing in this section affects any other duties, obligations, or authorities established by any other section of this subchapter, including the right to judicial review of duties, obligations, or authorities established by any other section of this subchapter.

### (m) Termination of effectiveness

#### (1) In general

Except as provided in paragraph (2), the authority provided by this section terminates on September 30, 2012.

#### (2) Phase out

##### (A) Fiscal year 2013

During fiscal year 2013, the requirement to pay and collect registration service fees applies, except that the level of registration service fees payable under this section shall be reduced 40 percent below the level in effect on September 30, 2012.

##### (B) Fiscal year 2014

During fiscal year 2014, the requirement to pay and collect registration service fees applies, except that the level of registration service fees payable under this section shall be reduced 70 percent below the level in effect on September 30, 2012.

##### (C) September 30, 2014

Effective September 30, 2014, the requirement to pay and collect registration service fees terminates.

##### (D) Decision review periods

###### (i) Pending applications

In the case of an application received under this section before September 30, 2012, the application shall be reviewed in accordance with subsection (f) of this section.

###### (ii) New applications

In the case of an application received under this section on or after September 30, 2012, subsection (f) of this section shall not apply to the application.

(June 25, 1947, ch. 125, §33, as added Pub. L. 108-199, div. G, title V, §501(f)(2), Jan. 23, 2004, 118 Stat. 422; amended Pub. L. 110-94, §5, Oct. 9, 2007, 121 Stat. 1002; Pub. L. 110-193, §1(a), Mar. 6, 2008, 122 Stat. 649.)

#### REFERENCES IN TEXT

The effective date of the Pesticide Registration Improvement Act of 2003, and the effective date of this section, referred to in text, is the effective date of section 501 of Pub. L. 108-199, which is the date that is 60 days after Jan. 23, 2004, unless otherwise provided, see section 501(h) of Pub. L. 108-199, set out as an Effective Date of 2004 Amendment note under section 136a of this title.

The Federal Food, Drug, and Cosmetic Act, referred to in subsec. (b)(2)(B)(ii), is act June 25, 1938, ch. 675, 52 Stat. 1040, as amended, which is classified generally to chapter 9 (§301 et seq.) of Title 21, Food and Drugs. For complete classification of this Act to the Code, see section 301 of Title 21 and Tables.

The effective date of the Pesticide Registration Improvement Renewal Act, referred to in subsecs. (b)(3)(A) and (f)(1), is the effective date of Pub. L. 110-94, which is Oct. 1, 2007, see section 6 of Pub. L. 110-94, set out as an Effective Date of 2007 Amendment note under section 136a of this title.

The Chief Financial Officers Act of 1990, referred to in subsec. (h)(1)(A), is Pub. L. 101-576, Nov. 15, 1990, 104 Stat. 2838. For complete classification of this Act to the Code, see Short Title of 1990 Amendment note set out under section 501 of Title 31, Money and Finance, and Tables.

The Government Management Reform Act of 1994, referred to in subsec. (h)(1)(B), is Pub. L. 103-356, Oct. 13, 1994, 108 Stat. 3410, as amended. For complete classification of this Act to the Code, see Short Title of 1994 Amendment note set out under section 3301 of Title 31, Money and Finance, and Tables.

#### PRIOR PROVISIONS

A prior section 33 of act June 25, 1947, ch. 125, was renumbered section 34 and is classified to section 136x of this title.

#### AMENDMENTS

2008—Subsec. (b)(7)(D)(i). Pub. L. 110-193, §1(a)(1)(A)(i), added cl. (i) and struck out former cl. (i). Prior to amendment, text read as follows: “The Administrator may waive or reduce a registration service fee for an application for minor uses for a pesticide.”

Subsec. (b)(7)(D)(ii). Pub. L. 110-193, §1(a)(1)(A)(ii), inserted “or exemption” after “waiver”.

Subsec. (b)(7)(E). Pub. L. 110-193, §1(a)(1)(B)(ii), substituted “exempt an application from the registration service fee” for “waive the registration service fee for an application” in introductory provisions.

Pub. L. 110-193, §1(a)(1)(B)(i), substituted “exemption” for “waiver” in heading.

Subsec. (b)(7)(E)(ii). Pub. L. 110-193, §1(a)(1)(B)(iii), substituted “exemption” for “waiver”.

Subsec. (m)(2)(A), (B). Pub. L. 110-193, §1(a)(2), substituted “2012” for “2008”.

2007—Subsec. (b)(2)(C)(ii). Pub. L. 110-94, §5(a)(1), added cl. (ii) and struck out former cl. (ii) which read as follows: “a request for a waiver from or reduction of the registration service fee.”

Subsec. (b)(2)(D) to (H). Pub. L. 110-94, §5(a)(2), added subpars. (D) to (H).

Subsec. (b)(3)(A). Pub. L. 110-94, §5(b)(1)(A), substituted “Pesticide Registration Improvement Renewal Act” for “Pesticide Registration Improvement Act of 2003”.

Subsec. (b)(3)(B). Pub. L. 110-94, §5(b)(1)(B), substituted “S10409 through S10411, dated July 31, 2007.” for “S11631 through S11633, dated September 17, 2003.”

Subsec. (b)(6). Pub. L. 110-94, §5(b)(2), added par. (6) and struck out former par. (6). Prior to amendment, text of par. (6) read as follows: “Effective for a covered pesticide registration application received on or after October 1, 2005, the Administrator shall—

“(A) increase by 5 percent the service fee payable for the application under paragraph (3); and

“(B) publish in the Federal Register the revised registration service fee schedule.”

Subsec. (b)(7)(F)(ii). Pub. L. 110-94, §5(c)(1), substituted “75 percent” for “all” in introductory provisions.

Subsec. (b)(7)(F)(iv)(II). Pub. L. 110-94, §5(c)(2), substituted “75 percent of the applicable.” for “all”.

Subsec. (b)(8)(A). Pub. L. 110-94, §5(d), substituted “25 percent.” for “10 percent”.

Subsec. (c)(1)(B). Pub. L. 110-94, §5(e)(1), substituted “paragraph (5)” for “paragraph (4)”.

Subsec. (c)(3)(B). Pub. L. 110-94, §5(e)(2)(A), added subpar. (B) and struck out former subpar. (B). Prior to amendment, text of subpar. (B) read as follows: “For each of fiscal years 2004 through 2008, the Administrator shall use approximately  $\frac{1}{17}$  of the amount in the Fund (but not more than \$1,000,000, and not less than \$750,000, for any fiscal year) to enhance current scientific and regulatory activities related to worker protection.”

Subsec. (c)(3)(C). Pub. L. 110-94, §5(e)(2)(B), struck out subpar. (C). Text read as follows: “For each of fiscal years 2004 and 2005, the Administrator shall use approximately  $\frac{1}{34}$  of the amount in the Fund (but not to exceed \$500,000 for any fiscal year) for the review and evaluation of new inert ingredients.”

Subsec. (c)(5). Pub. L. 110-94, §5(e)(3), designated existing provisions as subpar. (A), inserted heading, redesignated former subpars. (A) to (C) as cls. (i) to (iii), respectively, of subpar. (A) and added subpar. (B).

Subsec. (d)(2). Pub. L. 110-94, §5(f), which directed substitution of “Registration” for “For fiscal years 2004, 2005 and 2006 only, registration”, was executed by making the substitution for text which contained a comma after “2005” to reflect the probable intent of Congress.

Subsec. (f)(1). Pub. L. 110-94, §5(g)(1), substituted “Pesticide Registration Improvement Renewal Act” for “Pesticide Registration Improvement Act of 2003”.

Subsec. (f)(2). Pub. L. 110-94, §5(g)(2), substituted “S10409 through S10411, dated July 31, 2007.” for “S11631 through S11633, dated September 17, 2003.”

Subsec. (f)(4)(B). Pub. L. 110-94, §5(g)(3), added subpar. (B) and struck out former subpar. (B) which provided criteria for determining completeness of pesticide registration applications.

Subsec. (k)(1). Pub. L. 110-94, §5(h)(1), substituted “March 1, 2014” for “March 1, 2009”.

Subsec. (k)(2)(A)(i) to (v). Pub. L. 110-94, §5(h)(2)(A)(i), (ii), added cls. (ii) to (iv) and redesignated former cl. (ii) as (v). Former cls. (iii) and (iv) redesignated (vi) and (vii), respectively.

Subsec. (k)(2)(A)(vi). Pub. L. 110-94, §5(h)(2)(A)(i), (iii), redesignated cl. (iii) as (vi) and added subcls. (IV) and (V).

Subsec. (k)(2)(A)(vii). Pub. L. 110-94, §5(h)(2)(A)(i), redesignated cl. (iv) as (vii).

Subsec. (k)(2)(D) to (F). Pub. L. 110-94, §5(h)(2)(B)–(D), added subpars. (D) to (F).

Subsec. (m)(1). Pub. L. 110-94, §5(i)(1), substituted “2012” for “2008”.

Subsec. (m)(2)(A). Pub. L. 110-94, §5(i)(2)(A), substituted “2013” for “2009” in heading and text.

Subsec. (m)(2)(B), (C). Pub. L. 110-94, §5(i)(2)(B), substituted “2014” for “2010” in headings and text.

Subsec. (m)(2)(D). Pub. L. 110-94, §5(i)(2)(C), substituted “2012” for “2008” in two places.

#### EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110-193, §1(b), Mar. 6, 2008, 122 Stat. 650, provided that: “The amendments made by subsection (a) [amending this section] take effect on October 1, 2007.”

#### EFFECTIVE DATE OF 2007 AMENDMENT

Amendment by Pub. L. 110-94 effective Oct. 1, 2007, see section 6 of Pub. L. 110-94, set out as a note under section 136a of this title.

#### EFFECTIVE DATE

Section effective on the date that is 60 days after Jan. 23, 2004, except as otherwise provided, see section 501(h) of Pub. L. 108-199, set out as an Effective Date of 2004 Amendment note under section 136a of this title.

#### § 136x. Severability

If any provision of this subchapter or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this subchapter which can be given effect without regard to the invalid provision or application, and to this end the provisions of this subchapter are severable.

(June 25, 1947, ch. 125, §34, formerly §26, as added Pub. L. 92-516, §2, Oct. 21, 1972, 86 Stat. 998; renumbered §30, Pub. L. 95-396, §24(1), Sept. 30, 1978, 92 Stat. 836; renumbered §33, Pub. L. 104-170, title I, §121(1), Aug. 3, 1996, 110 Stat. 1492; renumbered §34, Pub. L. 108-199, div. G, title V, §501(f)(1), Jan. 23, 2004, 118 Stat. 422.)

#### PRIOR PROVISIONS

A prior section 34 of act June 25, 1947, ch. 125, was renumbered section 35 and is classified to section 136y of this title.

#### EFFECTIVE DATE

For effective date of section, see section 4 of Pub. L. 92-516, set out as a note under section 136 of this title.