

EPA Issues in Final Certain Pesticide Product Performance Data Requirements to Improve Clarity and Reduce Burden for Registrants

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On April 15, 2022, the U.S. Environmental Protection Agency (EPA) [announced](#) final product performance data requirements for products claiming efficacy against certain pests. [87 Fed. Reg. 22464](#). This action officially incorporates EPA's already existing [product performance standards requirements](#) for certain invertebrate pests into the Code of Federal Regulations (CFR). EPA states this action also increases the efficiency of its approval process and will save registrants time and money.

Product performance standards are intended to make it easier for pesticide registrants to know the efficacy data that EPA requires to demonstrate that a pesticide product works as claimed. By adding these requirements into the CFR, EPA states that it intends to help ensure that submitted data meet EPA's needs and scientific standards and satisfy a requirement of the 2018 Pesticide Registration Improvement Extension Act (PRIA 4). EPA notes as part of the agreement between pesticide stakeholders and public interest groups reflecting the environmental and farmworker safety communities in the development of PRIA, "PRIA 4 specifically establishes a new maintenance fee set-aside of up to \$500,000/year to develop and finalize rulemaking and guidance for product performance data requirements for certain invertebrate pests of significant public health or economic importance. Specific to this rule, PRIA 4 requires EPA to finalize product performance data requirements by September 30, 2021, for certain pesticides intended for preventing, destroying, repelling, or mitigating specified invertebrate pest of significant public health or economic importance."

This final rule includes product performance data requirements for the categories of invertebrate pests specified in PRIA 4, which EPA states it intends to satisfy the rulemaking requirement. EPA notes that this final rule covers some invertebrate pests in addition to those specified in PRIA 4 due to their public health, economic, or ecological significance (e.g., wood-destroying insects).

EPA states that it believes this final rule will save registrants approximately \$17,000 per data package submitted to EPA by reducing waste and unnecessary testing, and believes it will reduce burden hours by 4,683 annually, including 4,515 hours from reduced paperwork burden associated

with data generation and 168 hours from reduced paperwork with the application process.

This final rule codifies product performance data requirements to support the registration of products claiming efficacy against three categories of invertebrate pests:

- Those identified to be of significant public health importance (e.g., ticks, mosquitoes, cockroaches);
- Wood-destroying insects (e.g., termites); and
- Certain invasive invertebrate species (e.g., Asian long-horned beetle).

EPA states that the latter two categories are pests considered to be of significant economic or ecological importance.

The final rule is effective on **June 14, 2022**.

Commentary

Codifying the product performance data requirements for invertebrate pests should increase transparency to registrants regarding the efficacy data that they typically would need to generate and submit for products to make labeling claims against these specific pests. Registrants of the products at issue should monitor these requirements closely.

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