

GAO

Testimony

Before the Subcommittee on Environment, Energy, and
Natural Resources, Committee on Government Operations,
House of Representatives

release
Delivery
pected at
0 a.m. EDT
day
tober 29, 1993

PESTICIDES

Reregistration Delays
Jeopardize Success of
Proposed Policy Reforms

Statement of Peter F. Guerrero,
Associate Director, Environmental Protection Issues,
Resources, Community, and Economic Development Division



058478 / 150 229

02443

Mr. Chairman and Members of the Subcommittee:

We are pleased to be here today to discuss our work on the Environmental Protection Agency's (EPA) reregistration of pesticides and to relate this work to the administration's proposal for reforming the federal regulation of pesticides and food safety. In addition, as you requested, we have compiled a listing of over 50 GAO reports and testimonies dealing with the regulation of pesticides that our Office has issued over the past 8 years. We have provided copies of the listing to the Subcommittee for inclusion into the record, as well as to EPA's new Assistant Administrator for Pesticides and Toxic Substances to assist her in becoming familiar with problems that we have identified.

We will base our testimony primarily on two reports that we recently issued on EPA's progress in reregistering pesticides. Our May 1993 report assessed the agency's reregistration of pesticides generally,¹ and our April 1993 report examined EPA's review of lawn care pesticides.² As you know, the EPA Administrator has recognized that completing reregistration is critical to achieving the administration's proposed reforms.

In summary, we found that

- EPA will not be able to reregister all pesticide products by 1998, as required by the 1988 amendments to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). As of September 1993, EPA had reregistered only 250 of the 20,000 older pesticide products that are currently registered. EPA estimates that it may not complete reregistration until 2006. Furthermore, EPA's progress in reregistering pesticides used on food has been substantially slower than expected. Until it has reregistered these pesticides, it will not be able to review their tolerances, or allowable residues on food. Hence, it is unlikely that EPA will be able to meet the administration's goal of reviewing all existing pesticide tolerances within 7 years--and most high-risk pesticide tolerances within 3 years--after enactment of a food safety reform package. Finally, EPA has not included all costs in its estimate of the \$20 million deficit it has projected to complete reregistration. A complete cost estimate is important because the administration has proposed to offset funding shortfalls in the reregistration program through increases in user fees.

¹Pesticides: Pesticide Reregistration May Not Be Completed Until 2006 (GAO/RCED-93-94, May 21, 1993).

²Lawn Care Pesticides: Reregistration Falls Further Behind and Exposure Effects Are Uncertain, GAO/RCED-93-80, Apr. 6, 1993).

-- EPA's schedule for reregistering lawn care pesticides has slipped, by as much as 4 years. But even after these pesticides have been reregistered, their safety may be uncertain. Until EPA has developed guidelines for assessing their effects on human health after they have been applied to lawns, the agency will not be able to ensure the safety of persons exposed to them--particularly of children, who may have more contact with treated lawns than adults. As you know, the administration's proposal gives high priority to protecting children from the risks associated with pesticides.

Before I discuss the results of our work in more detail, let me briefly review the chronology of EPA's reregistration program and summarize our findings in monitoring EPA's progress.

BACKGROUND

Federal efforts to reassess the safety of pesticides began in 1972, when the Congress amended FIFRA, recognizing that older pesticide products needed to be reassessed in accordance with modern scientific standards to ensure that their use did not harm human health or the environment. The Congress required EPA to complete reregistration within 4 years. EPA tried to develop a reregistration program but made little progress, in large part because it did not have sufficient resources. In 1975, we questioned whether EPA's program was adequately protecting the public from the hazards of pesticides.

In 1978, the Congress amended FIFRA to remove the deadline for completing reregistration because it was uncertain how many years this task would take. Instead, the Congress required EPA to reregister all pesticides as expeditiously as possible. In 1980, we noted EPA's slow progress, and in 1986, we determined that, at its current pace, reregistration would extend well into the 21st century. We suggested that the Congress consider setting deadlines and allowing EPA to collect user fees to fund additional efforts.

In 1988, the Congress again set a specific statutory timetable for completing reregistration, requiring EPA to reassess all active ingredients by 1997 and to reregister all products containing these active ingredients by 1998. It also allowed EPA to collect user fees to help support reregistration. In May 1993, we reported that reregistration had again fallen behind schedule.

In September 1993, the administration submitted a comprehensive pesticide policy reform plan to the Congress. This plan calls for EPA to regulate pesticides largely in accordance with risk and to take into account the sensitivities of subpopulations, such as children, when setting regulatory standards.

EPA MAY NOT REREGISTER ALL PESTICIDES UNTIL 2006

As we reported last May, EPA will not be able to reregister all pesticide products by the 1998 deadline. According to the agency's estimates, the program may not be completed until 2006.

After collecting data for over 20 years to reassess the health and environmental effects of older pesticides, EPA had, as of September 1993, reregistered only 250 of the 20,000 older products that are currently registered. Moreover, most of the reregistered pesticide active ingredients are not high-priority food-use pesticides but rather are generally lower-priority pesticides--such as garlic, dried blood, and putrescent egg solids--that present few safety concerns. EPA is still collecting data on most of the thousands of pesticide products that are currently used in agriculture and in the home, including most of the higher-risk food-use pesticides.

Reregistration has not proceeded on schedule because EPA did not take into account the complexity and magnitude of the reregistration task or the resources needed to conduct the program. Also, a large number of the studies submitted to support reregistration are insufficient to allow pesticides to be fully reassessed. In its program projections, EPA estimated that 10 percent of the required studies would be rejected as unacceptable. In fact, the rejection rate for unacceptable studies has been as high as 45 percent. These unacceptable studies will need to be redone, requiring years of additional work. In view of the limited progress that EPA has made in reassessing the risks of the highest-priority pesticides and the work that lies ahead to accomplish this objective, we continue to believe that the Congress may wish to consider requiring EPA to finish reregistering the highest-priority, food-use pesticides before it reregisters the lower-priority pesticides.

EPA's continuing delays in reregistering older pesticides will be a roadblock to achieving the administration's pesticide policy initiatives. The administration's newly announced reforms call for EPA to establish a strong, protective, health-based safety standard for pesticide residues in all types of food and then to review all existing tolerances to ensure that they meet the standard. The proposal also calls for EPA to reevaluate all existing pesticide tolerances within 7 years of the Congress's enacting a pesticide policy reform package. Under the proposal, tolerances for most of the highest-risk pesticides would be reevaluated within 3 years.

Delays in the reregistration program diminish the likelihood that EPA will be able to reevaluate all pesticide tolerances within 7 years. As you know Mr. Chairman, under the Federal Food, Drug, and Cosmetic Act (FFDCA), EPA determines which pesticides are allowed to remain as residues on individual food commodities, and in what amounts. The FFDCA tolerance program is linked to the

FIFRA reregistration program in that most of the data required for setting tolerances are obtained through the reregistration program. Hence, continuing delays in developing and reviewing these data, which may postpone the completion of pesticide reregistration until 2006, make it highly unlikely that EPA will be able to meet its schedule for reevaluating pesticide tolerances.

Under the administration's reform proposals, tolerance reevaluations would, in most cases, follow EPA's schedule for pesticide reregistrations. Therefore, timely reevaluations of pesticide tolerances largely depend upon timely reregistrations of pesticides. In view of EPA's prolonged schedule to complete pesticide reregistration, and a need to reduce the public's exposure to the riskiest pesticides as soon as possible, it is imperative that EPA focus its efforts on the high-priority food-use pesticides that have the greatest potential to cause serious health problems. Our report recommended that the Congress consider amending FIFRA to require that, except in unusual circumstances, EPA finish reregistering the highest-priority, food-use pesticides before it reregisters lower-priority pesticides.

The administration's reform proposals would also set into motion an important registration "sunset" provision. Under this provision, pesticide registrations would expire after 15 years unless EPA approved a registrant's new application meeting the then-current scientific standards for safety. Under the existing system, pesticide registrations have no fixed expiration dates. While we have not evaluated EPA's rationale for a 15-year period, we believe that a sunset provision would appropriately place the burden on registrants to identify and supply all the data needed to demonstrate that their registrations complied with current standards. A sunset provision would help ensure that unsafe pesticides were taken off the market and would enable EPA to schedule future pesticide product reregistrations efficiently.

The administration's reform proposals would also strengthen the authorities of the food safety regulatory agencies to carry out their responsibilities under law. It would improve inspection and laboratory audit authorities, significantly increase civil and criminal penalties for FIFRA violations, and enhance FDA's authority to recall violative goods and impose civil penalties. We fully support the intent of this proposal. As we reported in September 1992,³ the Food and Drug Administration's pesticide monitoring program did not prevent imported foods adulterated with illegal pesticide residues from reaching U.S. grocery shelves. We recommended that the Congress consider strengthening the legal authority of the Secretary of Health and Human Services to penalize and deter importers from distributing pesticide-adulterated food.

³Pesticides: Adulterated Imported Foods Are Reaching U.S. Grocery Shelves (GAO/RCED-92-205, Sept. 24, 1992).

Finally, the administration's proposal estimates a \$20 million shortfall in the reregistration program's budget through the end of 1997 and recommends that this shortfall be funded through increases in pesticide registrants' fees. While user fees might be one method of funding the shortfall, we believe that the shortfall is likely to exceed \$20 million. In our May report, we questioned the adequacy of EPA's program cost estimate because, as we noted, the agency did not properly account for the additional data review costs and delays resulting from the high percentage of studies EPA has rejected and could reject in the future. In addition, EPA did not account for program costs beyond 1997, even though it recognized that reregistrations could not be completed by this date. As we recommended in our May 1993 report, the Administrator of EPA, in preparing an estimate of the costs and schedule for completing reregistration, should consider the additional review costs and delays that may result from the high percentage of studies the agency has rejected and may reject in the future.

LAWN CARE PESTICIDE REREGISTRATION FALLS FURTHER BEHIND

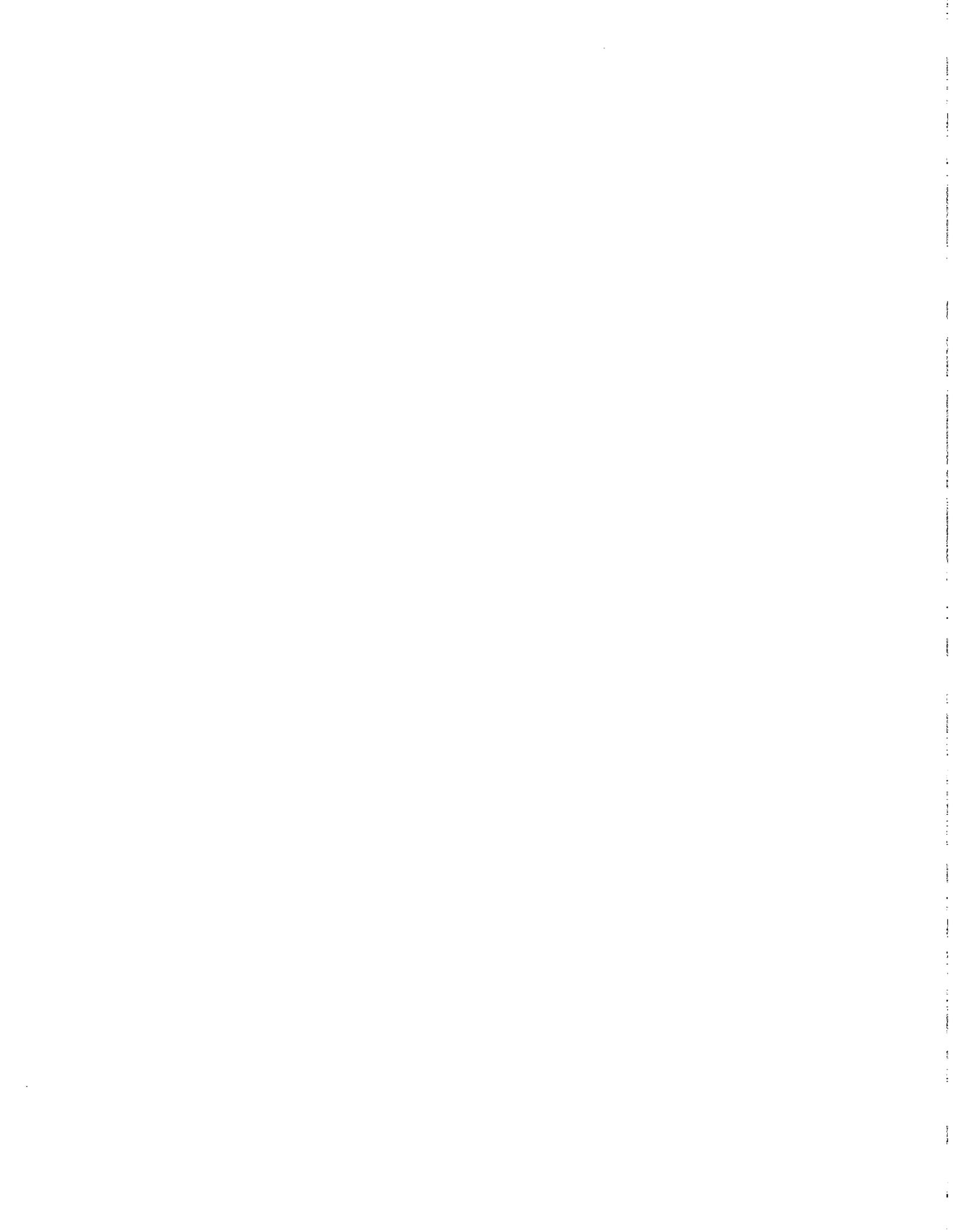
In our April 1993 report on the reregistration of lawn care pesticides, we reported that EPA's progress in reregistering the major lawn care pesticides had been delayed, principally because required study due dates had slipped, some by as much as 4 years. We also pointed out that even after reregistration, the safety of reregistered lawn care pesticides may still be uncertain because EPA has not yet developed guidelines to assess the effects on human health of exposure to pesticides after they have been applied to lawns. In view of this uncertainty, we recommended that the Administrator of EPA should fully assess the health effects of post-application exposure to lawn care pesticides before reregistering pesticides for lawn uses. To accomplish this, EPA needs to place a high priority on developing the testing and assessment guidelines for post-application exposure.

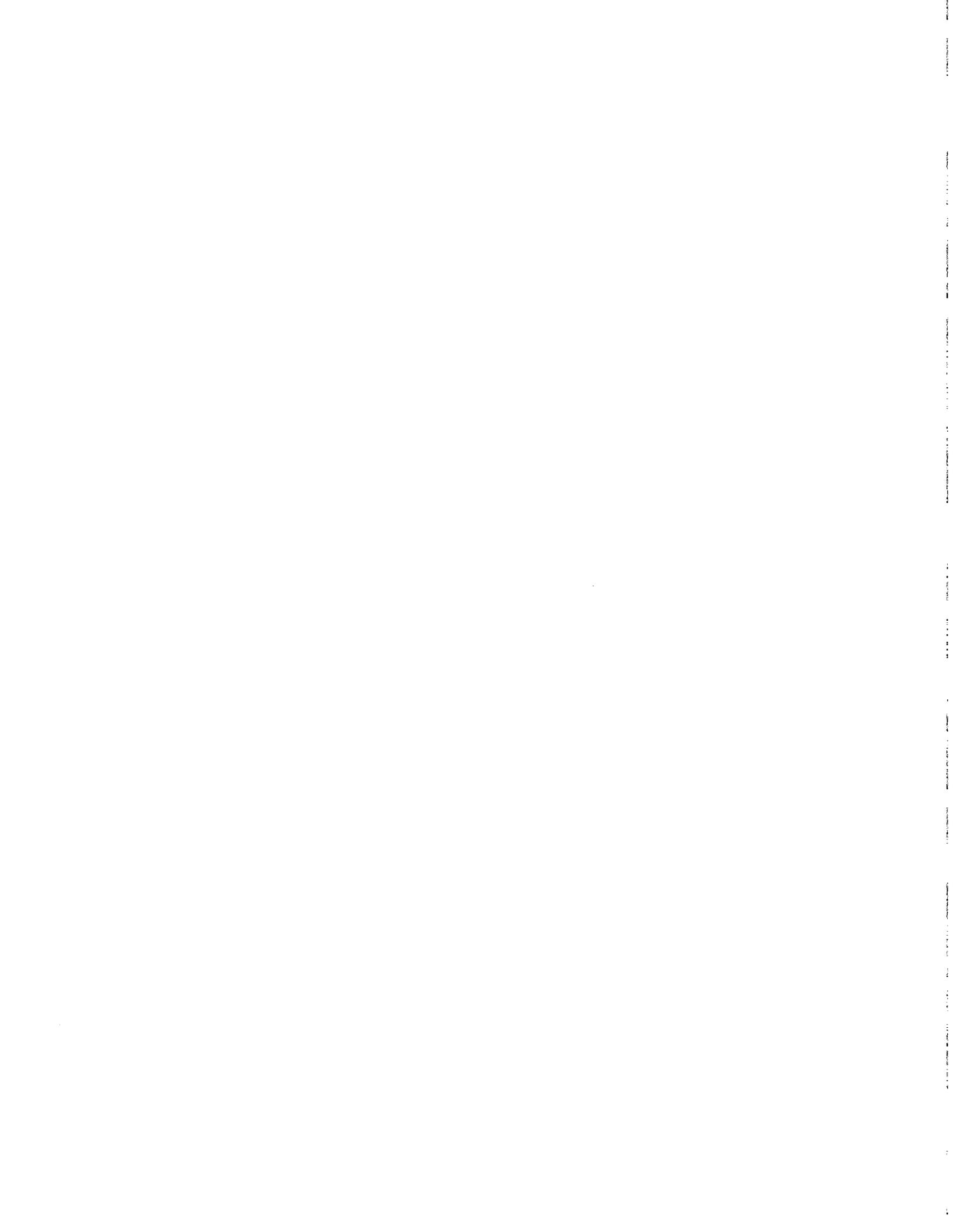
Our recommendation in the lawn care pesticide reregistration report is consistent with the administration's proposal to improve the analysis of exposure to pesticides. Our report noted that in light of increasing congressional scrutiny of alleged pesticide poisonings, EPA is reevaluating its long-held view that homeowners and their families do not risk developing health problems from exposure to lawn care pesticides. In particular, EPA is concerned about the persistence of these pesticides in the environment and about their potential effects on children, who may have more contact with treated lawns than adults. We pointed out that, despite these concerns, the agency was planning to continue to reregister lawn care pesticides using available methodologies to assess the effects of exposure while it developed new post-application exposure testing and assessment guidelines, which the agency estimates will not be available until 1997.

- - - -

Mr. Chairman, I would to close by stating that we are encouraged that the administration has proposed many important initiatives for reforming the regulation of pesticides. We agree with the Administrator of EPA that the timely completion of the reregistration review program is critical to the administration's efforts to fully assess and appropriately regulate pesticide risks. This concludes our prepared remarks. We would be pleased to answer any questions you may have.

(160244)





Ordering Information

The first copy of each GAO report and testimony is free. Additional copies are \$2 each. Orders should be sent to the following address, accompanied by a check or money order made out to the Superintendent of Documents, when necessary. Orders for 100 or more copies to be mailed to a single address are discounted 25 percent.

Orders by mail:

**U.S. General Accounting Office
P.O. Box 6015
Gaithersburg, MD 20884-6015**

or visit:

**Room 1000
700 4th St. NW (corner of 4th and G Sts. NW)
U.S. General Accounting Office
Washington, DC**

**Orders may also be placed by calling (202) 512-6000
or by using fax number (301) 258-4066.**

**United States
General Accounting Office
Washington, D.C. 20548**

**Official Business
Penalty for Private Use \$300**

**First-Class Mail
Postage & Fees Paid
GAO
Permit No. G100**
