(d) In general

No regulations prescribed by the Administrator for carrying out the provisions of this subchapter shall require any private applicator to maintain any records or file any reports or other documents.

(e) Separate standards

When establishing or approving standards for licensing or certification, the Administrator shall establish separate standards for commercial and private applicators.

(June 25, 1947, ch. 125, § 11, formerly §§ 4, 11, as added Pub. L. 92–516, § 2, Oct. 21, 1972, 86 Stat. 983, 989; amended Pub. L. 94–140, §§ 5, 11, Nov. 28, 1975, 89 Stat. 753, 754; Pub. L. 95–396, § 9, Sept. 30, 1978, 92 Stat. 827; Pub. L. 100–532, title VIII, § 801(c), (q)(1)(A)–(C), Oct. 25, 1988, 102 Stat. 2681, 2683; Pub. L. 102–237, title X, § 1006(a)(6), (b)(1), (2), (3)(K), Dec. 13, 1991, 105 Stat. 1895, 1896.)

CODIFICATION

Pub. L. 100–532, § 801(q)(1)(A), transferred subsecs. (a) to (c) of section 4 of act June 25, 1947, which was classified to section 136b of this title, to subsecs. (a) to (c) of this section.

PRIOR PROVISIONS

A prior section 11 of act June 25, 1947, was classified to section 135i of this title prior to amendment of act June 25, 1947, by Pub. L. 92–516.

AMENDMENTS

1991—Pub. L. 102–237, § 1006(a)(6)(A), substituted ''applicators'' for ''appplicators'' in section catchline.

Subsec. (a)(1). Pub. L. 102–237, § 1006(b)(3)(K), substituted ''the applicator'' for ''his'' in ninth sentence and ''the Administrator'' for ''him'' before period at end.

Subsec. (a)(2). Pub. L. 102–237, § 1006(b)(2), substituted ''the Administrator's'' for ''his'' in introductory provisions.

Subsec. (b). Pub. L. 102–237, § 1006(a)(6)(B), (b)(1), substituted ''subsection (a)(2) of this section'' for ''this paragraph'' in two places and ''the Administrator'' for ''he'' before ''shall afford'' and before ''shall so notify''.

Subsec. (c). Pub. L. 102–237, § 1006(a)(6)(C), substituted ''subsection (a)'' for ''subsections (a) and (b)'' after ''Administrator under''.

1988—Pub. L. 100–532, § 801(q)(1)(A), (C), substituted section catchline for one which read: ''Standards applicable to pesticide applicators'', redesignated subsecs. (a) and (b) as (d) and (e), respectively, and transferred subsecs. (a) to (c) of section 136b of this title to subsecs. (a) to (c), respectively, of this section.

Subsec. (a)(1). Pub. L. 100–532, § 801(c), substituted ''pesticides. Such program'' for ''pesticides: *Provided*, That such program'' and ''certification. The certification'' for ''certification: *Provided, however*, That the certification''.

1978—Subsec. (a)(1). Pub. L. 95–396 required that, in any State without a State plan for applicator certification approved by the Administrator, the Administrator, in consultation with the Governor of the State, shall conduct a program for the certification of applicators of pesticides under a Federal plan for applicator certification, and also that in such a State records be maintained and reports submitted by persons engaged in commercial application, sale or distribution of pesticides classified for restricted use.

1975—Subsec. (a)(1). Pub. L. 94–140, § 5, inserted proviso relating to Administrator's powers and duties with respect to the certification forms and requirement for pesticide dealers participating in certification program.

Subsec. (c). Pub. L. 94–140, § 11, added subsec. (c).

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–532 effective on expiration of 60 days after Oct. 25, 1988, see section 901 of Pub. L. 100–532, set out as a note under section 136 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.

§ 136i–1. Pesticide recordkeeping

(a) Requirements

(1) The Secretary of Agriculture, in consultation with the Administrator of the Environmental Protection Agency, shall require certified applicators of restricted use pesticides (of the type described under section 136a(d)(1)(C) of this title) to maintain records comparable to records maintained by commercial applicators of pesticides in each State. If there is no State requirement for the maintenance of records, such applicator shall maintain records that contain the product name, amount, approximate date of application, and location of application of each such pesticide used for a 2-year period after such use.

(2) Within 30 days of a pesticide application, a commercial certified applicator shall provide a copy of records maintained under paragraph (1) to the person for whom such application was provided.

(b) Access

Records maintained under subsection (a) of this section shall be made available to any Federal or State agency that deals with pesticide use or any health or environmental issue related to the use of pesticides, on the request of such agency. Each such Federal agency shall conduct surveys and record the data from individual applicators to facilitate statistical analysis for environmental and agronomic purposes, but in no case may a government agency release data, including the location from which the data was derived, that would directly or indirectly reveal the identity of individual producers. In the case of Federal agencies, such access to records maintained under subsection (a) of this section shall be through the Secretary of Agriculture, or the Secretary's designee. State agency requests for access to records maintained under subsection (a) of this section shall be through the lead State agency so designated by the State.

(c) Health care personnel

When a health professional determines that pesticide information maintained under this section is necessary to provide medical treatment or first aid to an individual who may have been exposed to pesticides for which the information is maintained, upon request persons required to maintain records under subsection (a) of this section shall promptly provide record and available label information to that health professional. In the case of an emergency, such record information shall be provided immediately.

(d) Penalty

The Secretary of Agriculture shall be responsible for the enforcement of subsections (a), (b), and (c) of this section. A violation of such subsection shall—

(1) in the case of the first offense, be subject to a fine of not more than $500; and

(2) in the case of subsequent offenses, be subject to a fine of not less than $1,000 for each violation, except that the penalty shall be less than $1,000 if the Secretary determines that the person made a good faith effort to comply with such subsection.

(e) Federal or State provisions

The requirements of this section shall not affect provisions of other Federal or State laws.

(f) Surveys and reports

The Secretary of Agriculture and the Administrator of the Environmental Protection Agency, shall survey the records maintained under subsection (a) of this section to develop and maintain a data base that is sufficient to enable the Secretary and the Administrator to publish annual comprehensive reports concerning agricultural and nonagricultural pesticide use. The Secretary and Administrator shall enter into a memorandum of understanding to define their respective responsibilities under this subsection in order to avoid duplication of effort. Such reports shall be transmitted to Congress not later than April 1 of each year.

(g) Regulations

The Secretary of Agriculture and the Administrator of the Environmental Protection Agency shall promulgate regulations on their respective areas of responsibility implementing this section within 180 days after November 28, 1990.

(Pub. L. 101–624, title XIV, § 1491, Nov. 28, 1990, 104 Stat. 3627; Pub. L. 102–237, title X, § 1006(d), Dec. 13, 1991, 105 Stat. 1896.)

CODIFICATION

Section was enacted as part of the Conservation Program Improvements Act, and also as part of the Food, Agriculture, Conservation, and Trade Act of 1990, and not as part of the Federal Insecticide, Fungicide, and Rodenticide Act which comprises this subchapter.

AMENDMENTS

1991—Subsec. (a)(1). Pub. L. 102–237, § 1006(d)(1), inserted closing parenthesis after ''section 136a(d)(1)(C) of this title''.

Subsec. (d)(1). Pub. L. 102–237, § 1006(d)(2), inserted ''of'' after ''fine''.

§ 136i–2. Collection of pesticide use information

(a) In general

The Secretary of Agriculture shall collect data of statewide or regional significance on the use of pesticides to control pests and diseases of major crops and crops of dietary significance, including fruits and vegetables.

(b) Collection

The data shall be collected by surveys of farmers or from other sources offering statistically reliable data.

(c) Coordination

The Secretary of Agriculture shall, as appropriate, coordinate with the Administrator of the Environmental Protection Agency in the design of the surveys and make available to the Administrator the aggregate results of the surveys to assist the Administrator.

(Pub. L. 104–170, title III, § 302, Aug. 3, 1996, 110 Stat. 1512.)

CODIFICATION

Section was enacted as part of the Food Quality Protection Act of 1996, and not as part of the Federal Insecticide, Fungicide, and Rodenticide Act which comprises this subchapter.

PESTICIDE USE INFORMATION STUDY

Section 305 of Pub. L. 104–170 provided that:

''(a) The Secretary of Agriculture shall, in consultation with the Administrator of the Environmental Protection Agency, prepare a report to Congress evaluating the current status and potential improvements in Federal pesticide use information gathering activities. This report shall at least include—

''(1) an analysis of the quality and reliability of the information collected by the Department of Agriculture, the Environmental Protection Agency, and other Federal agencies regarding the agricultural use of pesticides; and

''(2) an analysis of options to increase the effectiveness of national pesticide use information collection, including an analysis of costs, burdens placed on agricultural producers and other pesticide users, and effectiveness in tracking risk reduction by those options.

''(b) The Secretary shall submit this report to Congress not later than 1 year following the date of enactment of this section [Aug. 3, 1996].''

§ 136j. Unlawful acts

(a) In general

(1) Except as provided by subsection (b) of this section, it shall be unlawful for any person in any State to distribute or sell to any person—

(A) any pesticide that is not registered under section 136a of this title or whose registration has been canceled or suspended, except to the extent that distribution or sale otherwise has been authorized by the Administrator under this subchapter;

(B) any registered pesticide if any claims made for it as a part of its distribution or sale substantially differ from any claims made for it as a part of the statement required in connection with its registration under section 136a of this title;

(C) any registered pesticide the composition of which differs at the time of its distribution or sale from its composition as described in the statement required in connection with its registration under section 136a of this title;

(D) any pesticide which has not been colored or discolored pursuant to the provisions of section 136w(c)(5) of this title;

(E) any pesticide which is adulterated or misbranded; or

(F) any device which is misbranded.

(2) It shall be unlawful for any person—

(A) to detach, alter, deface, or destroy, in whole or in part, any labeling required under this subchapter;

(B) to refuse to—

(i) prepare, maintain, or submit any records required by or under section 136c, 136e, 136f, 136i, or 136q of this title;

(ii) submit any reports required by or under section 136c, 136d, 136e, 136f, 136i, or 136q of this title; or

(iii) allow any entry, inspection, copying of records, or sampling authorized by this subchapter;