

U. S. ENVIRONMENTAL PROTECTION AGENCY
OPERATIONS DIVISION
CHAMBLEE, GEORGIA 30341

PESTICIDE LEGISLATIVE NOTES NO. 73-1
April 1973

North Dakota to Study Action Necessary to Comply with the
Federal Environmental Pesticide Control Act of 1972 (FEPCA).

"A concurrent resolution directing the Legislative Council to make a study of necessary legislation and costs to the State of North Dakota to comply with the Federal Environmental Pesticide Control Act of 1972,"

Senate Concurrent Resolution No. 4035, adopted March 9, 1973 [North Dakota regular session, 1973 new laws, page 129] directs the Legislative Council to "... determine what legislation is required and the appropriation needed for North Dakota to comply with requirements of the Federal Environmental Pesticide Control Act of 1972 The study should consider legislation which will:

- "1. Designate a state department or agency with responsibility for the preparation and execution of a statewide plan to meet federal requirements in the training and certification of ... applicators ...;
- "2. Provide adequate personnel, equipment, and facilities to set up certification schools ... for applicators ...;
- "3. Provide an appropriation for the necessary state personnel, inspectors, and enforcement personnel; and
- "4. Provide the state department with rulemaking power to promulgate rules and regulations and penalties, consistent with federal requirements"

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PESTICIDE LEGISLATIVE NOTES NO. 73-2
April 1973

Nebraska amends law relating to aerial pesticide applicators.

Legislative Bill No. 391, approved March 13, 1973 [Nebraska, regular session, 1973 new laws, page 213] amends Section 3-128, Revised Statutes Supplement, 1972, by deleting considerable detail from the statute and providing authority to issue regulations to accomplish the same purpose.

Specifics in a law sometimes handicap its implementation and administration, whereas statutory authority to issue necessary regulations, regarding the same specific points, permits greater flexibility in administering the law. The amendment here accomplishes this purpose.

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PESTICIDE LEGISLATIVE NOTES NO. 73-3
April 1973

"Wyoming Environmental Pesticide Control Act of 1973"

House Bill No. 233, approved March 3, 1973 [Chapter 175, Laws 1973] enacts new control authorities for the State, for both registration and use and application of pesticides and devices.

It defines terms, provides authority to regulate labeling, distribution, storage, transportation, use, application, disposal, registration, and examination of pesticides and devices. It provides for classification of licenses, establishment of fees, and enforcement authorities.

Classification of licenses "... shall include but are not limited to: (a) commercial applicator ..., (b) private applicator"

The Board of Agriculture may, by regulation, adopt lists of restricted pesticides and only certified applicators may use such pesticides.

The Act appears to be in harmony with the Federal Environmental Pesticide Control Act of 1972 [P.L. 92-516]. The Federal Act, conceived October 21, 1972, (bills were introduced in February 1971), is now in its 6th month of pregnancy, with a gestation period of up to 48 months, (certain sections were effective immediately), its embryonic development is being given careful attention within the parent E.P.A. [See Federal Register, Volume 38, No. 5, Jan. 9, 1973 (38 FR 1142) and Volume 38, No. 20, Jan. 31, 1973 (38 FR 3002) for implementation plans and establishment task force assignments.]

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PESTICIDE LEGISLATIVE NOTES NO. 73-4
April 1973

South Dakota Concurrent Resolution; Pesticide Legislation Study

House Concurrent Resolution No. 519 [1973 New Laws, page 309] adopted March 14, 1973, cites "... legislative interest and necessity for a detailed study of State legislation to bring South Dakota into compliance with the Federal Environmental Pesticide Control Act of 1972."

Recognizing that the Federal Act will establish requirements for controlling use of pesticides, that restricted pesticides can be applied only by trained applicators, that the "... South Dakota Department of Agriculture will be required to certify applicators, including both farmers and commercial applicators ...," that the Act "... could have a major impact on farmers, businessmen, and the future of South Dakota's agricultural economy...", and that "... the 1974 South Dakota Legislature will need to enact legislation to enable the Department of Agriculture to have a State plan submitted to the Federal Government prior to a 1975 deadline ..." [therefore be it resolved] "... that the Legislative Research Council be requested to make a comprehensive study of State legislation in line with Federal requirements while keeping in mind South Dakota's agricultural needs"

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PESTICIDE LEGISLATIVE NOTES NO. 73-4, Supplement 1
April 1973

South Dakota grants reciprocity to aerial applicators.

Senate Bill 165 [1973 New Laws, page 149], approved March 27, 1973, adds a new subdivision to S D C L 50-11-20 providing:

"... aircraft ... coming into this State for the purpose of ... operating . . pursuant to Sec. 38-21-3 (applying pesticides) or applying commercial fertilizer, and if ... licensed in such other State, shall be exempt from the additional registration tax. Provided ... that this exemption shall apply only to the extent that ... like exemptions and privileges are granted aircraft duly registered under laws and owned by residents of this State."

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PESTICIDE LEGISLATIVE NOTES NO. 73-5
April 1973

Montana Amends Pesticides Act

Senate Bill No. 187 [Chapt. 447, Laws 1973] approved March 23, 1973, makes the following amends to the "Montana Pesticides Act":

1. Includes seeds with those items to which pesticides are applied, [Sec. 27-216, (4) (a) R.C.M. 1947];
2. Adds the term "Public Utility Applicator" and makes such persons subject to the Act [Sec. 27-216, (4) (e)];
3. Applicators applying for a dealer's or retailer's license required to pay a fee of five dollars (\$5.00) [Sec. 27-221, (1)];
4. A separate dealer's license and fee is now required for each location or outlet [Sec. 27-225, (1)];
5. Provides that licensed veterinarians and pharmacists need not be required to purchase licenses to sell pesticides [27-225, (5)]; and
6. "... retailers selling only human insect repellants shall only be required to pay a license fee of five dollars (\$5.00) ..." [27-227, (1)].

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PESTICIDE LEGISLATIVE NOTES NO. 73-6
May 1973

New Hampshire amends Pesticides Control Board membership.

House Bill No. 98 [Chapter 42, Laws 1973] approved March 24, 1973, provides for substitute ex-officio member for the Director of Fish and Game on the pesticide control board. The Chief of Game Management and Research is empowered to perform all duties of the Director, as an ex-officio member of the board. The Act is effective July 1, 1973.

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PESTICIDE LEGISLATIVE NOTES NO. 73-7
May 1973

New Mexico enacts "Pesticide Control Act."

Senate Bill No. 324 [Chapter 366 (p. 1265), Laws 1973] approved April 4, 1973, enacts a comprehensive new law and repeals the "Pesticide Applicators Law," [N.M. Stat. Ann., s 67-34-1 to 67-34-8 (1966)], the "New Mexico Economic Poison Act of 1951" [N.M. Stat. Ann., s 45-9-1 thru 45-9-12 (1966)], and the "Commercial Exterminators and Fumigators Act" [N.M. Stat. Ann., s 12-1-23.1 (1953)]. It regulates both the registration and the use and application of pesticides. It provides for registration, labeling, distribution, storage, transportation, application, use and disposal, and the licensing of pesticide dealers, pest management consultants, and pesticide applicators and operators.

Of interest in the section on definitions are the terms, "pest management consultant, restricted use pesticide, and unreasonable adverse effects on the environment." The term "private applicator" is used in the text, but not defined.

The Act provides for both commercial and private applicator certification and requires the board (the Board of Regents of New Mexico State University) to: "... take into consideration [certification] standards of the United States Environmental Protection Agency"

Pesticides registered under the old Act and licenses issued under previous laws, remain valid until December 31, 1973.

The Act creates a pesticide advisory board consisting of:

"... the dean of the college of agriculture at New Mexico state university, the director of the New Mexico environmental improvement agency, the director of the New Mexico department of game and fish, the director of the New Mexico state planning office and the director of the New Mexico department of agriculture or their designees. The pesticide advisory board is created to assure the continuation of the basic policy of the state to protect and improve the environment by assuring the proper registration, distribution and use of pesticides and devices.

"B. The pesticide advisory board shall [meet] at least once each year prior to November 1 review all pesticides in use or proposed to be used in the state and, determine which pesticides should not be registered in the state, which should be designated restricted use pesticides, and the use to which restricted use pesticides may be put. In determining the use to which restricted use pesticides may be put, the pesticide advisory board shall consider the need for control of the target pest, whether the use of effective alternate materials is practicable and whether the use of alternate materials is hazardous to the environment or public health and welfare, or both.

"C. The findings of the pesticide advisory board shall be submitted to the board in promulgating regulations pursuant to the Pesticide Control Act."

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PESTICIDE LEGISLATIVE NOTES NO. 73-8
May 1973

Nevada Amends Custom Application Law.

Assembly Bill No. 326 [Chapter 231, Laws 1973 (page 93)] approved April 5, 1973, makes certain changes in examining and fee requirements for licenses and provides for licensing on a calendar-year basis.

Applicants failing to complete licensing requirements within 30 days forfeit fees submitted [NRS 555.290 (2)].

Fee schedules have been revised as follows:

Testing fee (for each field of pest control)	\$ 5.
(maximum)	\$25.
(minimum for any 1 application)	\$10.
Licensing fee (issuance of license)	\$25.
Companies employing others (each agent)	\$10.

The licensing period is now on a calendar-year basis, representing a change from a fiscal-year basis [NRS 555.320].

The amendment removes the word "custom" before "application" so that the statute now refers to application of pesticides rather than custom application of pesticides.

The amendment clarifies a point which, in some State laws, is ambiguous. This amendment clearly states that there is a fee for giving an examination, and another fee for issuing a license, and that an applicant not completing his licensing requirements within 30 days after making application forfeits his testing fee.

Assembly Bill 614 [Chapter ____, Laws 1973] approved ____, 1973, brings engaging in structural pest control subject to control by the State. Certain sections of the Custom Application of Pesticides Law [Nev. Rev. Stat., s 555.260 to 555.460 (Supple. 1973)] have been amended as follows:

NRS 555.262 - adds the term "engaging in the business of pest control" as part of the definition of custom application.

NRS 555. 280 - adds the statement that [no person shall] "engage in making custom inspection of households or other structures for wood destroying pests or similar organisms" [unless licensed].

NRS 555.300 - adds the following:

"3. The applicant or the individual designated by the applicant in accordance with subsection 2 of this section shall be the age of majority or over and shall have:

(a) Not less than 2 years' practical experience in pest control; or

(b) Possess university credits of not less than 16 credit hours in biological sciences of which not less than 8 credit hours must be in subjects directly related to the categories of pest control in which the applicant wishes to be licensed and shall have 6 or more months of practical experience in pesticide application or related pest control.

"4. The requirements of subsection 3 shall not apply to persons holding a license issued by the executive director before July 1, 1973, nor shall such requirements apply to the renewal of the license of any such person."

Chapter 555 of NRS is amended by adding sections 5 and 6 as follows:

"Sec. 5 'Pest control' means the business of engaging in advertising or soliciting for or performance of the use of pesticides or mechanical devices for the purpose of eliminating, exterminating, controlling or preventing infestations of pests.

"Sec. 6 No person shall for hire engage in, offer to engage in, advertise or solicit to perform any of the following pest control activities concerning wood destroying pests or organisms without a license issued by the executive director:

1. Making an inspection or inspections for the purpose of identifying or attempting to identify infestations or infections of households or other structures by such pests or organisms.

2. Making inspection reports concerning such infestations or infections.

3. Making estimates or bids, whether written or oral, concerning such infestations or infections.

4. Submitting bids to perform any work involving the application of pesticides for the eliminating, exterminating, controlling or preventing infestations or infections of such pests."

Both of the above laws (amendments) become effective July 1, 1973.

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PESTICIDE LEGISLATIVE NOTES NO. 73-9
May 1973

Rhode Island amends pesticide law.

House Bill No. 5163 [Act 24, Laws 1973 (page 23)] approved April 5, 1973, amends the definition of "commercial applicator" [R. I. Gen. Laws Ann., s 23 - 41.1 - 3 (9)] so as to now read:

"(9) The word "commercial applicator" shall be construed to mean any person or persons, public or private corporation, partnership or other entity (A) who applies pesticides for profit or for use in obtaining a profit from another commodity, building, organism, place or service, and/or (B) who sells a pesticide whose use has been restricted by law or regulation."

The amendment adds clause (B) and emphasizes control over the sale of "restricted" pesticides, and deletes reference to purchasing and transporting pesticides [in 23 - 41.1 - 3 (9)].

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PESTICIDE LEGISLATIVE NOTES NO. 73-10
June 1973

Kansas Amends Pesticide Use Law.

Senate Bill No. 230 [1973 new laws, page 751] approved April 13, 1973, makes certain changes in existing law ["Kansas Pesticide Use Law," Kan. Stat. Ann., s 2-2414 to 2-2436 (Supp. 1972)], the most significant being:

1. Deletion of the term "direct on-the-job supervision" and the substitution of a definition compatible with the definition in the Federal Environmental Pesticide Control Act of 1972. [See Section 2, (e), (4), FEPCA].

2. Financial responsibilities changes -- applicant must furnish proof of financial responsibility in the form of a surety bond or a certificate of liability insurance in the following amounts:

Without licensed application equipment	(not less than) \$2,000.
With first unit of licensed equipment	(an additional) \$1,000.
Bodily injury liability, each occurrence	\$25,000.
Property damage, each occurrence	\$5,000.
Deductable clause, for each occurrence	\$500.

3. The "exemptions" section [KSA 2-2427] now differentiates between "commercial" and "private" applicators to harmonize with the two classes of applicators defined in FEPCA.

4. Addition of two new sections relating to licensing.

Of interest in this respect is a provision that a pesticide equipment operators 'permit,' or a public equipment operators' permit may be renewed by meeting certain requirements, one of which is furnishing "proof of satisfactory completion of training in pesticide use"

Temporary permits for the above catagories may be issued by the county clerk, after the county extension agent has tested the applicant and graded the examination.

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PESTICIDE LEGISLATIVE NOTES NO. 73-11
June 1973

New York Amends The Custom Applicator Certification Section
of Environmental Conservation Law.

Senate Bill No. 4410 [Chapter 314, Laws 1973 (page 353)] approved May 8, 1973, amends custom applicator certification standards by rewording parts of Section 33-0905, in order to clearly distinguish between the "commercial" applicator and the "private" (farmer) applicator and appears to bring the law in harmony with the same two types of applicators established by the Federal Environmental Pesticide Control Act of 1972.

The amendment requires a recognition of these differences when establishing qualifications for certification, and presumably in activities related to implementation and administration of the act, as does FEPCA.

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PESTICIDE LEGISLATIVE NOTES NO. 73-12
June 1973

Tennessee Enacts Commercial Aerial Applicators Law.

Senate Bill No. 224 [Chapter 90, Public Laws 1973 (page 113)]
approved April 19, 1973, creates a licensing requirement for
commercial aerial applicators of pesticides.

The ten section act:

- (1) Defines certain terms;
- (2) Grants the Commissioner of Agriculture certain powers and duties, granting him broad authority to issue regulations regarding many aspects of implementation and administration of the law;
- (3) Establishes license fees for both the pilot and plane;
- (4) Establishes a \$100,000. liability insurance policy requirement;
- (5) Grants the commissioner licensing revocation authority, as well as subpoena power, in the hearing processes;
- (6) Provides penalties for violation of the act;
- (7) Grants the commissioner injunctive processes to stop violations;
- (8) Exempts local, State, and Federal aerial operations, legitimate agricultural experiments, and a landowner who makes aerial applications on his own land with his personally owned aircraft; and
- (9) Permits the commissioner to issue a temporary permit in certain defined emergency conditions.

The act becomes effective July 1, 1973.

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PESTICIDE LEGISLATIVE NOTES NO. 73-13
August 1973

Maine Amends Economic Poison Law and Board of Pesticide Control Law.

House Bill No. 668^{1/} adds a new "stop-sale" order to the "Maine Economic Poison Law"^{2/} by providing that...

"...when the commissioner has reasonable cause to believe any economic poison... is being distributed, stored, transported, or used in violation of... (law or regulations)...

"... he may issue and serve a written stop-sale order upon the owner or custodian.... If the owner or custodian is not available, the commissioner may attach the order to the pesticide or device and notify the registrant. The economic poison or device shall not be sold, used, or removed until the provisions of this subchapter have been complied with..."

House Bill No. 958^{3/} revises the Board of Pesticides Control Law, clarifies certain definitions, grants additional licensing restriction authorities to the Board, eliminates certain time requirements for making application for permits to apply pesticides to aquatic areas, permits inspection of pesticide chemicals (in addition to equipment and application procedures), and grants authority to

"... regulate and control all use of pesticides... through regulations. Such regulations may concern... areas of application; chemical content and labeling; methods of application and unsafe practices; critical areas where use of pesticides should be restricted; limitations on use; disposal, transportation, and storage; qualifications and training of pesticide users; and sale and distribution.

"In promulgating... regulations... the Board shall consider pertinent research findings and the recommendations of other agencies..." Authorizes injunctive proceedings, removes statutory exemption of the Forestry Department, and places the exemption under (Board) regulation

and expands the right of entry, including the authority to apply for and execute search warrants. The Act adds a new section which authorizes the Board to subpoena persons and records.

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- 1/ Approved April 23, 1973. Chapter 245, Public Laws 1973, page 249
- 2/ Section 592. [Me. Rev. Stat. Ann., tit. 7, s 581 to 592 (1964)]
- 3/ Approved April 11, 1973. Legislative document No. 1268

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PESTICIDE LEGISLATIVE NOTES NO. 73-14
August 1973

Colorado Amends Pesticide Laws.

House Bill No. 1530 (1973 New Laws, page 259), approved June 7, 1973, amends the Colorado "Commercial Pesticide Applicators' Act" [Colo. Rev. Stat., s 6-14-1 to 6-14-22 (1967)] by:

1. Adding:

"Section 6-14-3. Licenses - applications - fees. (5) Each person licensed pursuant to the provisions of this article shall attend an applicator workshop at least every other year to be conducted by the Colorado State University Cooperative Extension Service in cooperation with the department. Failure to attend such workshop shall result in the revocation of the license granted pursuant to the provisions of this article." and,

2. Amending:

"Section 6-14-6. Renewal of licenses. Licensees may make application to renew their licenses without further written and oral examinations prior to December 31 of each year if the application is accompanied by a certificate evidencing the fact that the applicant for renewal has attended an applicator workshop pursuant to section 6-14-3. Failure to attend such workshop or make application for renewal prior to December 31 shall require the licensee to retake and satisfactorily pass the written and oral examinations."

"The Pesticide Act" [Colo. Rev. Stat., s 6-12-1 to 6-12-16 (1963)] has been amended by clarifying the expiration and appointment dates of certain members of the advisory committee.

Section 6-12-15. Pesticide Dealers License. No longer permits an applicator's license to satisfy the requirement for or substitute as a dealer's license.

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PESTICIDE LEGISLATIVE NOTES NO. 73-15
August 1973

Connecticut Rewrites Pesticide Laws.

Senate Bill No. 1810 (Public Act 73-540, Laws 1973), approved June 17, 1973, entitled the "Connecticut Pesticide Control Act," represents a thorough reworking of state pesticide control laws and enacts a comprehensive new statute.

It includes registration, use and application, and "custom tree work." It repeals the existing "custom application of pesticides" and the economic poison law [Gen. Stat. Conn., s 19-300a to 19-300s (1958)].

The Act parallels the Federal Environmental Pesticide Control Act of 1972 (FEPCA) in practically all areas of control, including definitions of terms, classification of pesticides into either general use or restricted use (the Commissioner of Environmental Protection may change classification to conform to Federal classification), authority to prescribe standards for certification of applicators, establishment of standards for commercial applicators separate from private applicators, experimental use permits, books and records, inspection of establishments, protection of trade secrets, stop sale, use, removal or seizure orders, and other similar provisions relating to FEPCA.

The Act becomes effective October 1, 1974.

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PESTICIDE LEGISLATIVE NOTES NO. 73-16
August 1973

Hawaii adds Section on pesticide residue labeling.

House Bill No. 1769 (Act 153, Laws 1973, p. 457), approved
May 22, 1973, adds a new section to the Code, as follows:

"... Pesticides residue; labeling. The board of agriculture shall require importers, wholesalers, and retailers of any raw agricultural commodities or processed foods produced or prepared in foreign countries whose regulations regarding pesticides residue control do not meet the standards established by section 408 of the Federal Food, Drug, and Cosmetic Act to label such products and commodities 'THIS PRODUCT NOT CERTIFIED FOR TOXIC PESTICIDE RESIDUE'."

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PESTICIDE LEGISLATIVE NOTES NO. 73-17
August 1973

Texas amends economic pesticide law in relation to commercial fertilizer law.

House Bill No. 1619^{1/} amends both of the above laws^{2/} so as to require that any economic pesticide added to a fertilizer shall first be registered under the pesticide law. Prior to this amendment, the definition of the term "economic pesticide" exempted such requirement.

House Bill No. 1353^{3/} amends the herbicide law^{4/} by permitting control over "any county or a portion of a county" as compared to previous "county" control, with respect to the use or prohibited use of herbicides.

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^{1/} Approved June 12, 1973. 1973 New Laws, page 681.

^{2/} "Insecticide, Fungicide, and Rodenticide Act of Texas" (Article 135b-5, Vernon's Texas Civil Statutes); and "Texas Commercial Fertilizer Control Act of 1961" (Article 108a, Vernon's Texas Civil Statutes).

^{3/} Approved June 14, 1973. 1973 New Laws, page 1583.

^{4/} Texas Herbicide Law [Tex. Rev. Civ. Stat., art. 135b-4 (1969)].

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PESTICIDE LEGISLATIVE NOTES NO. 73-18
August 1973

North Carolina Amends Pesticide Control Laws.

House Bill No. 1024^{1/} amends the North Carolina Pesticide Law of 1971^{2/} by:

1. Granting additional authority to the Board to refuse to register or to cancel the registration of pesticides (if registrant fails or refused to comply with the Act). [Sec. 143-442 (e)]
2. Adding a paragraph requiring continued registration of a discontinued pesticide for one year following final distribution (plus authority to confiscate and dispose of the material for noncompliance). [Sec. 143-442 (g)]
3. Separating aircraft from ground equipment, with respect to certain fee charges, and eliminating the requirement that ground equipment have an identifying plate or decal. [Sec. 143-452 (b)]
4. Clarifying, with slight modifications, the classification of licenses and providing the Board with authority to license apprentice pesticide applicators. [Sec. 143-452 (d)]
5. Adding a paragraph regarding basic qualifications for apprentice aerial pesticide applicators. [Sec. 143-453 (a), (4)]
6. Repealing the definition of the term "pesticide operator." [Sec. 143-460 (31) repealed]
7. Granting additional authority to the Board "... to suspend the application of any provision of this Part to any Federal or State agency if... emergency conditions require such action...." [Sec. 143-461 (2) (b) new]

Senate Bill No. 537^{3/} makes substantial amendments to the "Structural Pest Control Act of North Carolina of 1955."^{4/} Among other things, the amendment:

1. Requires that the two members of the Structural Pest Control Committee appointed by the Governor shall be "... licensed in at least two phases of structural pest control...."

2. The section on definitions (106-65.24) is rewritten to include 24 terms, as compared to 11 in the original law.

3. Provides that any person issued a license after Oct. 21, 1976, shall be deemed a "certified applicator." (This ties directly to the Federal Act - FIFRA).

4. Revises the standards for basic qualification of applicants, relating primarily to substitution of experience for education.

5. Broadens the statutory requirements of the written, or oral and written examination for an original license, including "... knowledge of the laws and regulations governing the use and application of pesticides...."

6. Provides that "... requalifying... as certified applicators (after Oct. 21, 1976)... as (may be) required by the federal government at intervals no more frequent than that specified by federal law and federal regulation...." (No interval has been established by Federal law, and regulations are in draft form).

7. Adds four more causes to the existing five for revoking or suspending licenses.

8. Increases from 30 to 75 days the time period that license holders must furnish the names of solicitors and servicemen to the Director and provides additional statutory restraints on issuance of identification cards to servicemen, solicitors, estimators, or agents.

9. Repeals a "grandfather" clause in the original act. (Those in business six months prior to July 1, 1955).

10. Adds a new section (106-65.36) on intergovernmental cooperation authorizing formal agreements with other agencies (State or Federal) for enforcement purposes.

House Bill No. 1075^{5/} authorizes the Department of Agriculture to regulate the production, sale, use, and distribution of biological organisms under a newly created statute entitled "North Carolina Biological Organism Act."

While the Act is somewhat in the nature of a "quarantine" law, it is much broader. Of interest in this Note is the provision that "... the Board is authorized to cause use of pesticides, parasites, predators, pheromones, genetic materials, and other control techniques which are consistent with pesticide, environmental, and other laws applicable in the State...."

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- 1/ Approved (ratified) May 8, 1973. Chapter 389, Laws 1973, page 769.
- 2/ N.C. Stat., s 143-434 to 143-470.
- 3/ Approved (ratified) May 17, 1973. Chapter 556, Laws 1973, page 741.
- 4/ N.C. Gen Stat., s 106-65.22 to 106-65.36.
- 5/ Approved (ratified) May 23, 1973. Chapter 713, Laws 1973, page 721.

U. S. ENVIRONMENTAL PROTECTION AGENCY
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PESTICIDE LEGISLATIVE NOTES NO. 73-19
October 1973

Illinois grants additional authority to Interagency Committee
on Pesticides.

Senate Bill No. 1177^{1/} approved July 18, 1973, authorizes the Committee to:

"... cooperate with, receive grants-in-aid from, and enter into cooperative agreements with any agency of the federal government, of this State or its subdivisions, or with any agency of another State, in order:

(1) To secure uniformity of regulations;

(2) To enter into cooperative agreements with the federal EPA to register pesticides under the authority of the Federal Insecticide, Fungicide, and Rodenticide Act and applicable Acts of the State of Illinois;

(3) To cooperate in the enforcement of the Federal Pesticide Control Laws through the use of State and federal personnel and facilities and to implement cooperative enforcement programs including, but not limited to, the registration and inspection of establishments;

(4) To enter into contracts with other agencies including federal agencies for the purpose of training pesticide dealer managers and pesticide management consultants."

"The Department of Agriculture is designated as the State Agency responsible to accept and receive grants-in-aid from federal government. The Director of the Department of Agriculture as authorized by the interagency committee shall execute agreements and contracts as chairman of the interagency committee on pesticides."

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^{1/} Public Act 78-196, Laws 1973; New Laws, page 47.

U. S. ENVIRONMENTAL PROTECTION AGENCY
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PESTICIDE LEGISLATIVE NOTES NO. 73-20
November 1973

Oregon repeals, consolidates and re-enacts pesticide laws

Senate Bill No. 106, approved July 23, 1973^{1/}, repeals the "Oregon Pesticide Applicators Law" [ORS 573 (1971 replacement part)] and the registration law [standards and labels for agricultural chemicals (ORS 634)(1971 replacement part)] and enacts a "State Pesticide Control Act," covering both registration and use and application of pesticides.

The Act adds definitions for a few new terms; such as private applicator, pesticide consultant, pesticide dealer, public applicator, public trainee and restricted-use pesticides (the latter term was not previously defined, but authority existed to "classify" pesticides).

The new Act requires additional information from persons who wish to use pesticides for experimental purposes. It grants exemption to "experiments or research carried on in greenhouses," and to State and Federal agencies.

The Act re-establishes the Committee on Synthetic Chemicals in the Environment. This Committee consists of 12 members, 11 of whom are appointed by the Governor:

- (a) One member shall represent the department (Agriculture).
- (b) One member each shall be appointed from the State Forestry Department, the State Game Commission, and the State Department of Geology and Mineral Industries.
- (c) One member shall represent the Health Division of the Department of Human Resources.
- (d) One member shall represent the Department of Environmental Quality.

^{1/}Chapter 341, Laws 1973; 1973 New Laws, page 1819.

(e) One member shall represent the State's Public Utility Commissioner or Department of Transportation.

(f) One member shall represent the Environmental Health Sciences Center of Oregon State University.

(g) One member shall represent the pesticide chemical industry.

(h) Two members shall represent the public at large.

(i) One member shall represent the emergency service agencies of the State.

The section on registration now includes devices. The former registration fees based on a sliding scale have been changed to authorize a fee of " ... not to exceed \$40.00 for each ... brand, or each formula ..." Expanded authorities have been granted in restricting pesticide registration and use, and the former reference to the United States Department of Agriculture has been changed to Federal Government.

Section 10 of the Act recognizes Federal (FIFRA) preemption of labeling requirements for pesticide registration.

The Act incorporates provisions for establishment of tolerances for pesticide chemical residues in or on raw agricultural commodities and by reference ties this section to the State Food Law [ORS 616.235 (1) (b)].

The Act provides authority to examine and license pesticide consultants, dealers, operators, applicators, and trainees, and to " ... establish and maintain a system for certification of private applicators ..." License fees may be established by regulation but may not exceed specific amounts set by law. Pesticide operators are required to prepare certain records and to maintain them for at least 3 years.

There are provisions for filing a report of loss arising out of the use or application of pesticides with the Department of Agriculture, and for the Department to make an investigation.

The new law carries forward all existing "protected and restricted areas" and provides for establishing and administering new ones.

Considerable latitude is granted the department to " ... promulgate regulations necessary to carry out the purpose and intent of this 1973 Act ... "

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U. S. ENVIRONMENTAL PROTECTION AGENCY
OPERATIONS DIVISION

PESTICIDE LEGISLATIVE NOTES NO. 73-21
November 1973

Maryland revises, restates, and recodifies Agricultural Code.

Senate Bill 2(X), approved September 5, 1973^{1/}, pertains to a reworking of State agricultural laws, including those dealing with organization, structure, operations, duties, and authorities of the Department of Agriculture. Of concern in this Note are the revisions in the pesticide laws.

The Act places both the registration law (previously titled "Maryland Pesticide and Labeling Law") and the Pesticide Applicators Law under Title 5, each law having a separate subtitle. The significance of this action is that pesticide control is now in "one agency."

On January 1, 1973, the State changed its organizational pattern from a Board of Agriculture to a Department of Agriculture, with the Secretary being a cabinet level official appointed by the Governor.

Some of the changes proposed in the "revisors' notes" and enacted by the legislature are:

1. "... reference to specific departments of State and federal government is proposed for deletion and a general reference to State and federal agencies ... is substituted ..." The previous act listed, by name, several agencies, some of whom presently have no statutory authority relating to pesticide control. Frequent reorganizations in government result in authorities being moved from one agency to another and hence reference by name is undesirable. The more general statement "... any State or federal agency, authorized by law ..." (to do certain things, conduct research, etc.) is preferable in drafting legislation. A number of State registration laws still authorize the Commissioner of Agriculture (or other responsible State official) to cooperate with the U. S. Department of Agriculture (rather than EPA) in pesticide enforcement activities, or to

^{1/} 1973 New Laws, page 15; Chapter 6, Laws 1973.

adopt, by reference, regulations of USDA relating to registration and control of pesticides. Since USDA no longer has authority or responsibility for functions under the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, such specific language could present technical legal problems under certain circumstances.

2. "... the provisions that permit the department to refuse, suspend, or cancel registration for any pesticide that 'does not appear' to warrant the claims made for it, is proposed for deletion. These provisions are revised to permit the department to refuse, suspend, or cancel registration for any pesticide the department determines does not comply with the statute..."
3. "... the present provisions referring to this law as the Act 'of 1958' is proposed for deletion as unnecessary. This is the only pesticide law in the State..." The revisors' point is well taken with regard to basic law, but it should also be kept in mind that many legislative draftsmen prefer that amendments to these basic laws contain the year of the amending act in their titles, e.g., FIFRA, as amended (by the Federal Environmental Pesticide Control Act of 1972).
4. It is interesting to note that Section 5-305 of the new Act changes the word airplane, to aircraft, with the revisors' note as follows: "... aircraft is substituted in order to include helicopters. The Random House Dictionary of the English Language defines airplane as having fixed wings and thus the definition does not (did not) include helicopters..." Bill drafters should make frequent use of standard dictionaries, because courts will oftentimes do so in determining the meaning of terms not otherwise defined in the statute.

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PESTICIDE LEGISLATIVE NOTES NO. 73-22
November 1973

California amends code to authorize expenditures for pesticide research

Assembly Bill No. 2302, approved October 1, 1973^{1/}, amends Sections 12784 and 12841 of the Food and Agriculture Code to authorize the director of the Department of Agriculture to expend funds for "... research into pesticides and farmworker safety..." (in addition to funding of administrative and enforcement activities of the economic poison law).

Section 12841 now reads "... each registrant (a person who has registered a pesticide and received a certificate of registration or license) shall pay to the director an assessment not to exceed eight mills (\$0.008) per dollar of sales for all sales of his registered and labeled economic poisons for use in this State... The director may reduce the assessment if he determines that a lesser assessment rate, together with other available funds, will provide adequate revenue to enforce... (the act)... and (provide) ... funding of research into pesticides and farmworker safety."

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^{1/} Chapter 894, Laws 1973; 1973 New Laws, page 1257.

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PESTICIDE LEGISLATIVE NOTES NO. 73-23
November 1973

Massachusetts amends the Pesticide Board's licensing authority
(use and application law)

House Bill No. 6644, approved October 15, 1973^{1/}, amends paragraph 1 of Section 21C by:

1. Requiring " ... a person who applies pesticides in, on, or under any structure, whether on the land of another or not ..." to be licensed. The previous statute exempted such a person from licensing provisions of the law.
2. The exemption of farmers from licensing provisions continues but is restated as follows: " ... the Board shall not require a farmer who makes application of pesticides to land or buildings reasonably related thereto, owned or controlled by him for his own agricultural purposes to be licensed, but the Board may require that such farmer shall file ... a statement (affidavit) ... that he (will use only registered pesticides and only in accordance with label directions) ..."

This act does not change the Board's authority to " ... adopt ... rules and regulations relating to the application and use of pesticides as it may deem necessary ..." This is a broad grant of authority from the legislature and presumably would be sufficient to permit examination and certification of private applicators (to meet requirements of Section 4, FIFRA). Regulation 2.5.3, of the Board -- Use by Permit Only -- requires permits for use of certain pesticides by any person.

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^{1/}Chapter 910, Laws 1973; 1973 New Laws, page 915. See Acts, 1962. Chapter 521, an Act establishing a Pesticide Board in the Department of Public Health and regulating the application of pesticides in the Commonwealth.