

United States
Environmental Protection Agency
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EPA

What You Should Know about the Pesticide Law





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Pesticides have contributed substantially to man's well-being by providing such benefits as controlling disease carriers and improving agricultural production. However, pesticides are poisons, and can harm human beings and their environment.

The manufacture, sale, and use of pesticides has been regulated under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) since 1947. The regulatory authorities of FIFRA were significantly extended by a set of amendments known as the Federal Environmental Pesticide Control Act of 1972. FIFRA was further amended in 1975. FIFRA of 1947 only required Federal registration of pesticides sold in interstate commerce, but the amended Act requires that *all* pesticide products sold or distributed in this country be registered with the U.S. Environmental Protection Agency (EPA). In addition, all pesticide producers must now register their production establishments and keep detailed records of production and distribution. Finally, the amended Act prohibits the use of any registered pesticide in a manner inconsistent with labeling instructions.

These regulations are enforced by the 10 EPA Regional Offices supported by the EPA Pesticides and Toxic Substances Enforcement Division in Washington, D.C. They are intended to protect people and the environment from any harmful pesticide effects while ensuring that pesticides may be used to the fullest extent necessary.

REGISTRATION OF PRODUCTS

The Federal law requires that all pesticides intended for sale in the United States—including imported products—be registered with EPA. To obtain a registration, a manufacturer must submit data to EPA showing that the product, when used as directed:

- Is effective against the pests listed on the label.
- Will not injure people, animals, crops, or the environment.
- Will not result in illegal residues on food or feed.

Registered products must meet strict labeling requirements which include the EPA product registration number, the production establishment number, an ingredient statement, the name and address of the producer or the registrant, necessary precautionary statements, and directions for use.

After October 1977, all products will be classified for either general or restricted use. Restricted use pesticides may be used only by, or under the direct supervision of, a certified applicator. Statements or graphic representations on the label may not be false or misleading. If the product is to be used on a food or feed crop, a tolerance level for residues must be established by EPA. Products failing to comply with registration or labeling requirements may not be sold or distributed in the United States.

For further information on product registration write:

**U.S. Environmental Protection Agency
Office of Pesticide Programs
Registration Division (WH-567)
Washington, D.C. 20460
U. S. A.**

REGISTRATION OF ESTABLISHMENTS

Section 7 of the amended Act requires pesticide producers to register each establishment in which pesticides are produced, identifying the producing establishment on the label or container of each pesticide product, and to submit annual reports.

To register, a producer obtains a form entitled "Application for Registration of Pesticide-Producing Establishments" from an EPA Regional Office or the Pesticides and Toxic Substances Enforcement Division in Washington, D.C. The completed form is submitted to the Regional Office which has jurisdiction over the State in which the company's headquarters is located. After reviewing the application, the Regional Office assigns an establishment registration number ("EPA Est").

For establishments involved in *interstate* or *intrastate* commerce, this number must appear on each pesticide released for shipment from the production site. Any new pesticide products, or products from new establishments, must bear the establishment registration number from the outset of production. *The establishment registration number does not replace the product registration number—both must be included on the pesticide label or container.*

Annual reports must be submitted for each establishment detailing the types and amounts of pesticides produced. EPA is using these reports to develop a sampling and surveillance program to assist in enforcement.

Books

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Records

Section 8 of the amended Act requires that each producer maintain detailed books and records of its production and distribution. This is a significant change over FIFRA of 1947, which permitted Federal officials to inspect records maintained by pesticide producers but did not prescribe what was to be in those records. Federal regulations now specify that records must include:

- Brand names, registration numbers, batch numbers and amounts per batch of all pesticides produced.
- Brand names and quantities of all devices produced.
- Brand names and quantities of receipts and shipments of pesticides or devices, as well as the name of the originating or delivering carrier, the name and address of the shipper, the name and address of the consignee, and the dates of the receipt of shipment. Such records are required even for transfers between plants of the same company.
- Inventory records covering the brand names and quantities of pesticides and devices in stock produced by the establishment.
- Copies of all domestic advertising of pesticides classified for "restricted" use.
- Copies of all guarantees indicating that the product is registered with EPA and otherwise complies with the Act.
- For exports, copies of the foreign purchaser's specifications.
- Records of the producer's disposal of pesticides and their containers.
- Data from any tests conducted on human beings.
- Data on any adverse effects on human health and the environment.
- Research data on registered pesticides.

Records of production, shipping, product specifications for foreign purchase, and guarantees must be retained for two years. Records dealing with disposal and tests conducted on humans must be retained for 20 years or, after three years, they may be forwarded to the appropriate EPA Regional Office. Certain records must be retained indefinitely, including those covering unreasonable adverse effects on the environment and research data.

Inspection of Establishments

New inspection powers provided by the amended FIFRA permit EPA to more effectively prevent adulterated or misbranded products from reaching the consumer. Section 9 empowers EPA employees to conduct inspections and obtain samples in any place where pesticides or devices are held for distribution or sale.

EPA inspectors visit about 2,000 producing establishments each year, concentrating on establishments not previously visited, products not previously sampled, and establishments with a history of violations. Other inspections cover products produced in large volume, products suspected of being hazardous to human health and the environment, and products with an established pattern of misuse.

When an EPA inspector visits a producing establishment, he will:

- Present credentials.
- Give a written Notice of Inspection stating its purpose.
- Make available a copy of the Federal pesticide law and any related Federal regulations, explaining the pertinent portions.



- Inspect and sample selected pesticides and devices that are packaged, labeled, and released for shipment
- Check to see that a product has been registered with EPA's Office of Pesticide Programs and that its label agrees exactly with the label accepted at the time of registration
- If requested, give the agent in charge a duplicate of any sample taken
- Give a receipt for samples, and state that results of any analysis will be sent to the establishment
- Inspect books and records to determine if the establishment is keeping the required records in an up-to-date manner and for the time period required
- Discuss results of the inspection and explain any actions taken, making clear that the EPA Regional Office may take further action later

In addition to visiting producing establishments, pesticide inspectors keep a watchful eye on the marketplace. Surveys are made at wholesale and retail levels for unregistered products, for cancelled or suspended products, and for products whose formulation stability is questionable.

Actions Against Violations

Under the amended FIFRA, it is a violation of Federal law to use a pesticide in a manner inconsistent with its labeling. EPA's Pesticides and Toxic Substances Enforcement Division may conduct use inspections on private property with the consent of the owner to ensure that pesticides are being used properly. In cases where evidence of misuse exists, EPA inspectors may obtain a warrant allowing them to inspect the premises without the prior consent of the owner. In all cases the legal rights of the applicator or owner are strictly maintained.

EPA can take a number of actions if a product, establishment, or user violates any provision of the amended FIFRA. Minor violations—those which are not likely to influence the product's safe and effective use—may be handled with a written Notice of Warning (section 9). For major violations, the responsible party may be notified that civil or criminal proceedings are contemplated.

In the case of serious violations—for example, those involving sale or distribution of a product that is unregistered, misbranded, or adulterated, or a product which has had its registration canceled or suspended—EPA can also take any of the following actions to remove the product from the marketplace:

- **Recall.** EPA can request that a company voluntarily recall a defective product from its customers. This is an effective action since the manufacturer is in the best position to know where his products have been distributed.
- **Stop Sale, Use, or Removal Order.** EPA can issue an order to stop the sale, use, or removal of any product it has reason to believe is in violation of the pesticide law. This order covers all material controlled by the person receiving the order, regardless of its location. A new tool provided by section 13 of the 1972 Amendments to FIFRA, it is particularly valuable since it permits quick action.
- **Seizure.** EPA can ask the Federal District Court to seize any product found to be in violation of the Act. If products are in several locations, a separate order must be issued for each location.
- **Injunction.** Section 16(c) permits EPA to seek a court injunction to prevent a manufacturer or user from continuing to break the law. An injunction would usually be requested only when all other enforcement remedies have failed.

Penalties

Both civil and criminal penalties are available under section 14 for violations of the amended Act. FIFRA of 1947 permitted only criminal penalties, which often led to time-consuming Court proceedings.

The amended FIFRA makes the following provisions for assessing civil penalties:

- The alleged violator must receive a complaint setting forth the legal provisions said to have been violated, the factual basis for the allegation, the amount of the proposed penalty, and a notice of opportunity to request a public hearing.
- The respondent should file an answer to the complaint or request a hearing within 20 days. He may also seek settlement through informal conferences.
- Failure by the respondent to answer within 20 days will be considered an admission of the

allegations contained in the complaint and will result in a default order requiring payment of the proposed civil penalty.

- If a hearing has been requested or if settlement upon all issues has not been reached informally, a public hearing will be conducted by an Administrative Law Judge in the county where the respondent resides.

- The decision of the Administrative Law Judge becomes the final order of the Regional Administrator within 30 days unless appealed to the Regional Administrator or unless the Regional Administrator orders further review.

- The Regional Administrator will issue a final order disposing of each civil case. The final order will include findings of fact, conclusions reached, and a civil penalty assessment.

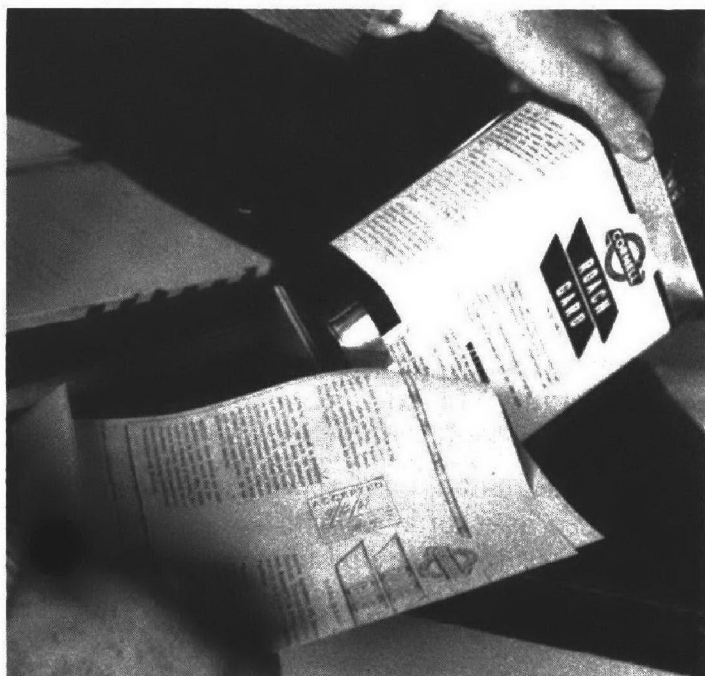
- The final order issued by the Regional Administrator may be appealed to the U.S. Court of Appeals.

- All uncollected civil penalties will be turned over to the U.S. Attorney General for collection.

Section 14(a) permits the following civil penalties:

- General, any registrant, commercial applicator, wholesaler, dealer, retailer, or other distributor who violates any provision of the Act may be assessed not more than \$5,000 for each offense.

- Any private applicator or other person not included in the preceding category who violates the Act after receiving a written warning from



EPA, or following a citation for a prior violation, may be assessed not more than \$1,000 for each offense

In setting the penalty, EPA considers the size of the business, the penalty's effect on the ability of the business to continue to operate, and the gravity of the violation.

Section 14(b) permits the following criminal penalties

- In general, any registrant, commercial applicator, wholesaler, dealer, retailer, or other distributor who knowingly violates any provision of the Act shall be guilty of a misdemeanor and shall on conviction be fined not more than \$25,000 or imprisoned for not more than one year, or both
- Any private applicator or other person not included in the preceding category who knowingly violates any provision of this Act shall be guilty of a misdemeanor and shall on conviction be fined not more than \$1,000, or imprisoned for not more than 30 days, or both

Experimental Use Permits

EPA's Office of Pesticide Programs issues Experimental Use Permits to encourage development of new, less hazardous, and more effective pesticides. If application of an experimental pesticide could result in any residue on or in food or feed, the Office of Pesticide Programs will set a temporary tolerance or safe residue level before issuing a permit. A permit allows limited field testing to gather data concerning effectiveness and safety in support of an application to register a pesticide, while providing sufficient regulatory control to protect human health and the environment. About 100 permits were issued per year under FIFRA of 1947, under section 5 of the amended Act, the number has increased because permits are now required for previously exempt Federal and State programs.

Any pesticide under an Experimental Use Permit must be used in accordance with the provision^{—e} the permit. Misuse of any pesticide under permit may lead to civil or criminal penalties. Pesticide inspectors in EPA's Regional Offices monitor the use of material being applied under an experimental permit, giving special attention to firms with a

record of earlier permit violations. The Office of Pesticide Programs may revoke a permit at any time if the permit is being violated, or if the testing threatens to endanger human health or the environment.

Disposal

Disposal of excess pesticides and containers can be a major problem for pesticide producers, distributors, and users. As directed in section 19, the Agency has issued recommended procedures for the disposal and storage of pesticides, pesticide containers, and pesticide-related wastes. Regulations have been proposed which would prohibit certain methods of pesticide disposal and storage, including open dumping, open burning, water or ocean dumping without permit, well injection without State and EPA approval, and storage or disposal so as to contaminate food or feed. Meanwhile, EPA will provide advice to pesticide producers, distributors, or users facing a disposal or storage problem. The preferred disposal method is to recover some useful value

in excess material. Some pesticides can be returned to a manufacturer who may be able to reuse or reprocess them, and some may be relabeled or reformulated by a manufacturer to make them comply with the law. Others may be exported to a country where their use is legal. In some cases, containers can be reused after being thoroughly cleaned. Triple-rinsed containers may be disposed of in a sanitary landfill. If these alternatives are infeasible, incineration (with chemical pretreatment as appropriate) is the preferred method. Disposal at a specially designated landfill is a second choice. Anyone unable to find an adequate method of disposal should contact the Solid Waste representative in the nearest EPA Regional Office.

Imports and Exports

The import and export of pesticides and devices are regulated by section 17 of the amended

FRA. Pesticides intended solely for export from the United States must be prepared and packaged according to the specifications of the foreign purchaser. The amended Act also requires that a U.S. producer of pesticide exports register

his establishment(s); maintain books and records on production, sale, and distribution; and allow EPA to inspect his establishments.

Pesticide products and devices imported into the United States and the establishments in which they are produced, however, must meet the same requirements as domestic products and their production establishments. An exception is made for chemicals imported in small amounts to undergo testing for pesticidal value. If the user does not intend to receive any direct pest control benefits from these chemicals, the only import requirement is that they carry instructions for proper handling during transportation.

Anyone planning to import pesticides or devices into the United States should obtain a copy of "Notice of Arrival of Pesticides and Devices" from the appropriate EPA Regional Office. After the form is filled in, it is returned to the regional office, which will indicate how the shipment is to be handled when it arrives at the U.S. port. The completed form is then returned to the importer or his agent.

In the past, the U.S. Customs Service reported pesticide imports to EPA at the time they entered the country. Consequently, the products were often detained while EPA determined if they complied with the law. By permitting initial papers to be completed before a shipment arrives, the new procedures help speed imports to their destination.

Upon arrival at the port, a pesticide shipment may be released immediately if the product and all papers are in order.



A shipment may be detained if

- Notice of Arrival is incomplete
- The Notice refuses entry of the shipment
- The Notice orders that the shipment be examined or analyzed to determine if it is in compliance with the Act

The importer can avoid storage charges at the port on shipments which are detained by posting a delivery bond approximately equal to the value of the shipment. If a pesticide is sold or distributed without EPA release, the delivery bond may be forfeited.

About one-fourth of the incoming shipments are examined to determine if they are properly labeled. Some samples are collected, usually from products never previously sampled or products of firms with histories of violations. Products previously in violation are inspected, and samples are analyzed to determine if they now comply with the Act. After completing the inspection, EPA may:

- Release the shipment if it is in order
- Order changes to bring the shipment into compliance
- Refuse entry of the shipment. The importer must then return it to the country of origin or destroy it.

Coordination With State Agencies

The amended Act provides for EPA to cooperate with State enforcement programs. State agencies are playing an increasingly important role in the enforcement of the Act's provisions. State inspection staffs, which are larger than EPA's and more familiar with local problems, are better able to detect and investigate certain violations. Using a registered pesticide in a manner inconsistent with its labeling is now prohibited, and the States are often better equipped to uncover and investigate misuse. State inspectors are also very effective in monitoring Experimental Use Permits and in surveillance of retail pesticide markets. EPA makes considerable use of the information it receives from State officials, and is entering into cooperative agreements with many States to formally delegate authority to participate in Federal enforcement activities. Together, EPA and the States are working to administer the

Federal law fairly, recognizing the benefits and risks involved in using pesticides and the need to balance and protect the interests of producer, user, and public alike.

The amended Act also provides for cooperative agreements between EPA and other Federal agencies, such as the Food and Drug Administration, the Occupational Safety and Health Administration, the Federal Aviation Administration, and the Fish and Wildlife Service. Such inter-agency agreements provide for the exchange of evidence and other information for use in EPA's enforcement program under the amended FIFRA. By drawing on the expertise and other resources of various Federal agencies, EPA is able to achieve a more effective enforcement program, and make the most efficient use of Federal resources.

Some definitions . . .

Pesticide: any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest, and any substance or mixture of substances intended for use in a plant regulator, defoliant, or desiccant.

(The term pesticide excludes those compounds classified as new animal drugs within the meaning of the Federal Food, Drug, and Cosmetic Act.)

Device: any instrument or contrivance (other than a firearm) intended for trapping, destroying, repelling, or mitigating any pest or any other form of plant or animal life (other than man and other than bacteria, viruses, or other microorganisms on or in living man or other living animals), equipment used for application of pesticides is excluded when it is sold separately. EPA determines those devices that are subject to the Act's provisions.

Producer: the person who manufactures, prepares, compounds, propagates, or processes any pesticide or device.

Producing Establishment: any place where a pesticide or device is produced, whether it is independently owned or operated, domestic and producing for export only, or foreign and producing for import into the United States.

Pesticide Use: any act of handling or release of a pesticide, or exposure of man or the environment to a pesticide through such acts as the application of a pesticide, the mixing, loading, and supervisory action in or near the area of application, and storage and disposal actions for pesticides and pesticide containers.

For Further Information

For further information, consult the Regional Office covering your State.

EPA Region I

Room 2303
John F. Kennedy
Federal Bldg.
Boston, Mass. 02203
617-223-5126

EPA Region II

Room 1005
26 Federal Plaza
New York, N.Y. 10007
212-264-8356

EPA Region III

6th & Walnut Streets
Philadelphia, Pa. 19106
215-597-9870

EPA Region IV

345 Cortland St., N.E.
Atlanta, Georgia 30308
404-285-3621

EPA Region V

230 S. Dearborn
Chicago, Illinois 60604
312-353-6219

EPA Region VI

1201 Elm St.
Dallas, Texas 75270
214-749-1153

EPA Region VII

Room 249
1735 Baltimore Avenue
Kansas City, Mo. 64108
816-374-3036

EPA Region VIII

Lincoln Tower Bldg.
Suite 900
1860 Lincoln Street
Denver, Colorado 80203
303-837-3926

EPA Region IX

100 California Street
San Francisco, Calif. 94111
415-556-3352

EPA Region X

1200 Sixth Avenue
Seattle, Washington 98101
206-442-1090

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