



# Current Report

PUBLISHED BY OKLAHOMA STATE UNIVERSITY  
DISTRIBUTED THROUGH COUNTY EXTENSION OFFICES

No. 7456

## THE 1972 FEDERAL ENVIRONMENTAL PESTICIDE CONTROL ACT

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In 1972 Congress passed the Federal Environmental Pesticide Control Act (FEPCA), amending the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) which had been the basis for federal regulation of pesticides since 1947. The amended law is commonly referred to as the amended FIFRA. Congress, in passing this Act, recognized the need for pesticides but felt that more control over pesticide use was desirable. The Act regulates pesticide production, transportation, sale, use, storage, and disposal. In addition, it makes the user responsible for the safe and judicious use of pesticides. The Act, when passed, was scheduled to become fully effective October 21, 1976, but recent action by Congress has extended the full implementation by one year to October 21, 1977. The most important provisions of the Act include:

1. Registration: All pesticides must be registered, if offered for sale, and must carry a U. S. EPA registration number. Pesticides previously registered by states for sale within their boundaries must be federally registered. States will be permitted to register pesticides for special local needs by submitting a plan to EPA for approval, detailing their capability to handle such registrations. A registration granted by a state for a special local need, if not disapproved by EPA, will become a federal registration for use in that state. The pesticide label must indicate that the use is approved only for that state. Oklahoma intends to register pesticides for special

local needs following approval by EPA to do so.

All pesticide producing or formulating establishments must register with EPA. Custom blenders who mix an insecticide or herbicide with fertilizer and then sell it to a farmer or homeowner must register their operation as a pesticide producing establishment. If a custom blender blends such a mixture and applies it for his customers, he does not have to register his plant. He would, however, be considered a commercial pesticide applicator and must be licensed under Oklahoma law.

2. Records: Plants producing pesticides must keep records of pesticides produced, shipped, disposed of, or placed in storage. Pesticide dealers, distributors, carriers, or other persons who sell or deliver any pesticides must, upon the request of an authorized EPA inspector, permit the inspector to have access to and to copy all records showing delivery and holding of pesticides. Dealers are not required to maintain any records of sales of pesticides. This requirement currently applies only to producers.

3. Classification of Pesticides: The Act requires all registered pesticides to be classified for general use or restricted use. A general use pesticide will be available to the general public. A restricted use pesticide may be applied only by a certified applicator or persons under his direct supervision. Each use of a pesticide will be classified

for general use or restricted use. It is likely that a pesticide may have some uses classified for general use and others for restricted use. Separate labeling will be used in this situation to permit the general public to have uses classified as general available to them. Classification of all currently registered pesticides will be completed by the full implementation date for the Act. New pesticide registrations will be classified at the time of their registration.

4. Certification of Applicators: Certification as a commercial or private pesticide applicator will be required of any person using or supervising the use of a restricted use pesticide. Two kinds of certified applicators are specified in the Act. A private pesticide applicator is a person who uses or supervises the use of a restricted use pesticide for purposes of producing any agricultural commodity on his own land, leased land, or on the property of another person if applied without compensation other than trading of personal services. An agricultural commodity is defined as any plant or animal product produced by a person primarily for sale, consumption, propagation, or other use by man or animals. A commercial pesticide applicator is a person who uses or supervises the use of a restricted use pesticide for any use or on any property other than that covered by the definition of a private pesticide applicator. Regulations developed for implementing applicator certification list 10 categories under which a commercial pesticide applicator may be certified.

(1) Agricultural Pest Control

- (a) Plant--Commercial applicators using or supervising the use of restricted use pesticides in the production of agricultural crops.
- (b) Animal--Commercial applicators using or supervising the use of restricted use pesticides on livestock.

(2) Forest Pest Control--Commercial applicators using or supervising the use

of restricted use pesticides in forests.

- (3) Ornamental and Turf Pest Control--Commercial applicators using or supervising the use of restricted use pesticides in the maintenance and production of ornamental trees, shrubs, flowers, and turf.
- (4) Seed Treatment--Commercial applicators using or supervising the use of restricted use pesticides on seeds.
- (5) Aquatic Pest Control--Commercial applicators using or supervising the use of restricted use pesticides to standing or running water.
- (6) Right-of-Way Pest Control--Commercial applicators using or supervising the use of restricted use pesticides in the maintenance of public roads, electric powerlines, pipelines, railway rights-of-way, or other similar areas.
- (7) Industrial, Institutional, Structural, and Health Related Pest Control--Commercial applicators using or supervising the use of restricted use pesticides in, on, or around dwellings, institutions, industrial establishments, and any other structures and adjacent areas, public or private.
- (8) Public Health Pest Control--Governmental employees using or supervising the use of restricted use pesticides to control pests of importance to public health.
- (9) Regulatory Pest Control--Governmental employees using or supervising the use of restricted use pesticides to control regulated pests.
- (10) Demonstration and Research Pest Control--Extension workers, industrial representatives, vocational agriculture instructors, some researchers, etc., using or supervising the use of restricted use pesticides.

Oklahoma currently requires commercial pesticide applicators to be licensed in several of the above categories for application of any pesticide. When the federal law is fully implemented and Oklahoma has adopted additional enabling legislation, anyone who applies a pesticide as a commercial applicator must be licensed by the Oklahoma Department of Agriculture. Certification as a commercial pesticide applicator will be on the basis of a written examination. Private pesticide applicators will need to be certified or "permitted" only if they use or supervise the use of a restricted use pesticide.

Certified pesticide applicators will be expected to understand pesticide labels, to know safety precautions, to recognize dangers to the environment, to know how to properly mix, apply, store, and dispose of pesticides, to recognize poisoning symptoms and know what to do, and to recognize common pests and damage.

The Oklahoma Department of Agriculture and Oklahoma State University Cooperative Extension Service are cooperating in the development of training programs to prepare private and commercial pesticide applicators for certification. A 90-minute slide-cassette tape program called "The Private Applicator" has been developed and is available for viewing in each County Extension office in Oklahoma. A manual called "The Private Pesticide Applicator Handbook" is also available for home study. The handbook and the slide-tape program contain information a private applicator needs to know to meet the certification standards. A short examination based on information in the training materials will be used to certify the private pesticide applicator in Oklahoma. Training manuals are being developed for all categories of commercial pesticide applicators. These category manuals will deal with information that is specific to a particular category. A "core" manual with information that is general to all categories will also be available. Training programs or short courses will be offered at several locations beginning in fall 1976 or early 1977.

5. Use Inconsistent With the Label: The amended FIFRA elevates the status of the label to that of a legal document. The Act makes it a violation to use any registered pesticide in a manner inconsistent with its labeling. In view of this, it is important to carefully read the label and follow the instructions and to use the pesticide for the purpose indicated on the label.

6. Emergency Use: A state may obtain permission to use an unregistered pesticide in the case of an emergency when there is no registered pesticide available to control the pest problem. The regulation provides for three types of exemption.

- (a) Specific Exemption--When a pest outbreak has occurred or is about to occur and there is no registered pesticide for that use or alternative method of control available, a request for an exemption to use a certain pesticide may be made by the governor or his designee (Oklahoma Department of Agriculture). Information including the nature, scope, and frequency of the problem, the pest involved, which pesticide or pesticides will be used and in what amounts, the economic benefits anticipated, and an analysis of possible adverse effects must be supplied. The U.S. EPA grants the exemptions. Reports must be filed when the treatment period is over.
- (b) Quarantine or Public Health Exemption--This exemption may be granted to prevent the introduction or spread of a foreign pest into or throughout the United States or to prevent a public health problem. No pesticide that has been suspended or cancelled by the administrator of the U.S. EPA may be used. The procedure for requesting this exemption is the same as outlined for the specific exemption.

(c) Crisis Exemption--A crisis exemption may be used if it is found that there is no readily available pesticide registered to control or eradicate the pest and that there is no time to request and get approval for a specific exemption. No pesticide that has been suspended or cancelled may be used. The administrator of EPA must be notified by telegram within 36 hours. Within 10 days of the use, the state must file information similar to that required for the specific exemption.

8. Experimental Use Permits: A permit is required for the experimental use of some pesticides. The information obtained from a pesticide under an experimental use permit is generally used to support the registration of the pesticide. The permit is usually valid for one year and requires substantial proof of safety and performance. The company or person holding the permit must keep extensive records and make reports to

the U.S. EPA. Several investigators may work under a single permit. If any residue can be expected to result on or in food or feed, a tolerance or exemption is required.

9. Penalties: The Act outlines procedures for assessing civil and criminal penalties to violators of the Act. Persons violating the Act and its regulations unknowingly are subject to civil penalties, whereas persons violating the Act and its regulations knowingly are subject to criminal penalties.

Under civil penalties a private applicator receives a warning on the first offense and may be fined up to \$1000 for subsequent offenses. Under criminal penalties, if found guilty, he may be fined up to \$1000 or imprisoned up to 30 days, or both.

For commercial applicators, registrants, wholesalers, dealers, retailers, or other distributors, the fine under civil penalties may be as much as \$5000 for each offense. Under criminal penalties the fine may be as much as \$25,000, one year in prison, or both.