

Subsec. (a)(2)(Q), (R), (S). Pub. L. 100-532, §603(2)(D), added subpars. (Q), (R), and (S).

1978—Subsec. (a)(2)(F). Pub. L. 95-396 inserted proviso exempting from prohibition the sale, under regulations issued by the Administrator, of a restricted use pesticide to a person who is not a certified applicator for application by a certified applicator.

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.

**§ 136k. Stop sale, use, removal, and seizure**

**(a) Stop sale, etc., orders**

Whenever any pesticide or device is found by the Administrator in any State and there is reason to believe on the basis of inspection or tests that such pesticide or device is in violation of any of the provisions of this subchapter, or that such pesticide or device has been or is intended to be distributed or sold in violation of any such provisions, or when the registration of the pesticide has been canceled by a final order or has been suspended, the Administrator may issue a written or printed "stop sale, use, or removal" order to any person who owns, controls, or has custody of such pesticide or device, and after receipt of such order no person shall sell, use, or remove the pesticide or device described in the order except in accordance with the provisions of the order.

**(b) Seizure**

Any pesticide or device that is being transported or, having been transported, remains unsold or in original unbroken packages, or that is sold or offered for sale in any State, or that is imported from a foreign country, shall be liable to be proceeded against in any district court in the district where it is found and seized for confiscation by a process in rem for condemnation if—

- (1) in the case of a pesticide—
  - (A) it is adulterated or misbranded;
  - (B) it is not registered pursuant to the provisions of section 136a of this title;
  - (C) its labeling fails to bear the information required by this subchapter;
  - (D) it is not colored or discolored and such coloring or discoloring is required under this subchapter; or
  - (E) any of the claims made for it or any of the directions for its use differ in substance from the representations made in connection with its registration;
- (2) in the case of a device, it is misbranded;

or

- (3) in the case of a pesticide or device, when used in accordance with the requirements imposed under this subchapter and as directed by the labeling, it nevertheless causes unreasonable adverse effects on the environment.

In the case of a plant regulator, defoliant, or desiccant, used in accordance with the label claims and recommendations, physical or physiological effects on plants or parts thereof shall

not be deemed to be injury, when such effects are the purpose for which the plant regulator, defoliant, or desiccant was applied.

**(c) Disposition after condemnation**

If the pesticide or device is condemned it shall, after entry of the decree, be disposed of by destruction or sale as the court may direct and the proceeds, if sold, less the court costs, shall be paid into the Treasury of the United States, but the pesticide or device shall not be sold contrary to the provisions of this subchapter or the laws of the jurisdiction in which it is sold. On payment of the costs of the condemnation proceedings and the execution and delivery of a good and sufficient bond conditioned that the pesticide or device shall not be sold or otherwise disposed of contrary to the provisions of the subchapter or the laws of any jurisdiction in which sold, the court may direct that such pesticide or device be delivered to the owner thereof. The proceedings of such condemnation cases shall conform, as near as may be to the proceedings in admiralty, except that either party may demand trial by jury of any issue of fact joined in any case, and all such proceedings shall be at the suit of and in the name of the United States.

**(d) Court costs, etc.**

When a decree of condemnation is entered against the pesticide or device, court costs and fees, storage, and other proper expenses shall be awarded against the person, if any, intervening as claimant of the pesticide or device.

(June 25, 1947, ch. 125, §13, as added Pub. L. 92-516, §2, Oct. 21, 1972, 86 Stat. 991; amended Pub. L. 100-532, title VIII, §801(h), Oct. 25, 1988, 102 Stat. 2682.)

PRIOR PROVISIONS

A prior section 13 of act June 25, 1947, was classified to section 135k of this title prior to amendment of act June 25, 1947, by Pub. L. 92-516.

AMENDMENTS

1988—Subsec. (b). Pub. L. 100-532, §801(h)(1), directed that sentence beginning "In the case of" be moved from par. (3) and become a full measure sentence after par. (3).

Subsec. (c). Pub. L. 100-532, §801(h)(2), substituted "sold. On" for "sold: *Provided*, That upon".

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**§ 136I. Penalties**

**(a) Civil penalties**

**(1) In general**

Any registrant, commercial applicator, wholesaler, dealer, retailer, or other distributor who violates any provision of this subchapter may be assessed a civil penalty by the Administrator of not more than \$5,000 for each offense.

**(2) Private applicator**

Any private applicator or other person not included in paragraph (1) who violates any