

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) 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) shall be through the Secretary of Agriculture, or the Secretary's designee. State agency requests for access to records maintained under subsection (a) 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) 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). 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) to develop and maintain a data base that is sufficient to enable the Secretary and the Administrator to publish annual comprehen-

sive reports concerning agricultural and non-agricultural 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

Pub. L. 104-170, title III, §305, Aug. 3, 1996, 110 Stat. 1512, 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 Agri-

culture, 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), 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;

(C) to give a guaranty or undertaking provided for in subsection (b) which is false in any particular, except that a person who receives and relies upon a guaranty authorized under subsection (b) may give a guaranty to the same effect, which guaranty shall contain, in addition to the person's own name and address, the name and address of the person residing in the United States from whom the person received the guaranty or undertaking;

(D) to use for the person's own advantage or to reveal, other than to the Administrator, or officials or employees of the Environmental Protection Agency or other Federal executive agencies, or to the courts, or to physicians, pharmacists, and other qualified persons,

needing such information for the performance of their duties, in accordance with such directions as the Administrator may prescribe, any information acquired by authority of this subchapter which is confidential under this subchapter;

(E) who is a registrant, wholesaler, dealer, retailer, or other distributor to advertise a product registered under this subchapter for restricted use without giving the classification of the product assigned to it under section 136a of this title;

(F) to distribute or sell, or to make available for use, or to use, any registered pesticide classified for restricted use for some or all purposes other than in accordance with section 136a(d) of this title and any regulations thereunder, except that it shall not be unlawful to sell, under regulations issued by the Administrator, a restricted use pesticide to a person who is not a certified applicator for application by a certified applicator;

(G) to use any registered pesticide in a manner inconsistent with its labeling;

(H) to use any pesticide which is under an experimental use permit contrary to the provisions of such permit;

(I) to violate any order issued under section 136k of this title;

(J) to violate any suspension order issued under section 136a(c)(2)(B), 136a-1, or 136d of this title;

(K) to violate any cancellation order issued under this subchapter or to fail to submit a notice in accordance with section 136d(g) of this title;

(L) who is a producer to violate any of the provisions of section 136e of this title;

(M) to knowingly falsify all or part of any application for registration, application for experimental use permit, any information submitted to the Administrator pursuant to section 136e of this title, any records required to be maintained pursuant to this subchapter, any report filed under this subchapter, or any information marked as confidential and submitted to the Administrator under any provision of this subchapter;

(N) who is a registrant, wholesaler, dealer, retailer, or other distributor to fail to file reports required by this subchapter;

(O) to add any substance to, or take any substance from, any pesticide in a manner that may defeat the purpose of this subchapter;

(P) to use any pesticide in tests on human beings unless such human beings (i) are fully informed of the nature and purposes of the test and of any physical and mental health consequences which are reasonably foreseeable therefrom, and (ii) freely volunteer to participate in the test;

(Q) to falsify all or part of any information relating to the testing of any pesticide (or any ingredient, metabolite, or degradation product thereof), including the nature of any protocol, procedure, substance, organism, or equipment used, observation made, or conclusion or opinion formed, submitted to the Administrator, or that the person knows will be furnished to the Administrator or will become a part of any records required to be maintained by this subchapter;