

Subsec. (c)(5). Pub. L. 102-237, §1006(b)(1), substituted “the Administrator” for “he” before “determines”.

Subsec. (d). Pub. L. 102-237, §1006(b)(1), substituted “the Administrator” for “he” before “deems necessary” and before “shall publish”.

1988—Subsec. (a). Pub. L. 100-532, §801(n)(1), amended heading and directed that pars. (1) to (3) be aligned at left margin with subsec. (c)(1), and that subpars. (A) to (D) of par. (2) be indented, and in par. (3) substituted “Committee on Agriculture, Nutrition, and Forestry” for “Committee on Agriculture and Forestry”.

Subsec. (a)(4). Pub. L. 100-532, §605, amended par. (4) generally, substituting single unlettered par. (4) for former subpars. (A) to (E).

Pub. L. 100-352, in subpar. (E), struck out “(i)” before “Any interested” and struck out cl. (ii) which provided that notwithstanding any other provision of law, any decision on a matter certified under cl. (i) of this subparagraph be reviewable by appeal directly to the Supreme Court of the United States, with such appeal to be brought not later than 20 days after the decision of the court of appeals.

Subsec. (d). Pub. L. 100-532, §602, substituted “section shall be permanent” for “subsection shall terminate September 30, 1987”.

Subsec. (e). Pub. L. 100-532, §801(n)(2), substituted “pesticide. Whenever” for “pesticide: *Provided*, That whenever”.

1984—Subsec. (a)(4)(E)(iii). Pub. L. 98-620 struck out cl. (iii) requiring the court of appeals and the Supreme Court to advance on the docket and expedite the disposition of any matter certified under cl. (i) of this subparagraph.

1983—Subsec. (d). Pub. L. 98-201 in fourth sentence, inserted “under this subsection” after “submitted”; in eighth sentence, provided for utilization of a system of staggered terms of appointment and substituted “7” and “6” for “seven” and “six”, respectively, and inserted ninth through fourteenth sentences respecting basis for selection of members, multidisciplinary representation, appointments to fill vacancies, extension of term pending filling of vacancies, appointment for unexpired term, and request for additional set of nominees from nominating entities; and in present eighth, formerly twelfth sentence, extended termination date to Sept. 30, 1987, from Sept. 30, 1981.

1980—Subsec. (a)(4). Pub. L. 96-539, §4, added par. (4). Subsec. (d). Pub. L. 96-539, §1, inserted provisions relating to composition of subpanels and submissions to advisory panels respecting registration suspensions.

Subsec. (e). Pub. L. 96-539, §2(a), added subsec. (e). 1978—Subsec. (a)(1). Pub. L. 95-396, §23(1), required regulations to take into account differences in environmental risk and appropriate data for evaluating such risk between agricultural and nonagricultural pesticides.

Subsec. (a)(2)(B). Pub. L. 95-396, §23(2), required the Administrator, before taking any final action, to consider certain factors bearing on the agricultural economy and to publish an analysis of the effect in the Federal Register.

Subsec. (d). Pub. L. 95-396, §23(3), (4), required the Administrator to solicit operating guidelines from the scientific advisory panel to improve scientific analyses made by personnel of the Environmental Protection Agency that lead to decisions by the Administrator in carrying out this subchapter; extended requirement of publication in the Federal Register to evaluations and recommendations of the advisory panel; authorized creation of temporary subpanels on specific projects to assist in accelerating the work of the advisory panel; set forth Sept. 30, 1981, as the termination date of the advisory panel; and required the panel to consult and coordinate its activities with the Science Advisory Board established under section 4365 of title 42.

1975—Subsec. (a)(1). Pub. L. 94-140, §2(a)(1), (2), redesignated existing provision as subsec. (a)(1) and inserted “, in accordance with the procedure described in paragraph (2),” after “is authorized”.

Subsec. (a)(2). Pub. L. 94-140, §2(a)(3), added par. (2).

Subsec. (a)(3). Pub. L. 94-140, §6, added par. (3).

Subsec. (d). Pub. L. 94-140, §7, added subsec. (d).

#### 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.

Amendment by Pub. L. 100-352 effective ninety days after June 27, 1988, except that such amendment not to apply to cases pending in Supreme Court on such effective date or affect right to review or manner of reviewing judgment or decree of court which was entered before such effective date, see section 7 of Pub. L. 100-352, set out as a note under section 1254 of Title 28, Judiciary and Judicial Procedure.

#### EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-620 not applicable to cases pending on Nov. 8, 1984, see section 403 of Pub. L. 98-620, set out as an Effective Date note under section 1657 of Title 28, Judiciary and Judicial Procedure.

#### EFFECTIVE DATE OF 1980 AMENDMENT

Pub. L. 96-539, §2(b), Dec. 17, 1980, 94 Stat. 3195, provided that: “The provisions of this section [amending this section] shall become effective upon publication in the Federal Register of final procedures for peer review as provided in this section, but in no event shall such provisions become effective later than one year after the date of enactment of this Act [Dec. 17, 1980].”

#### 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.

#### REFERENCES IN OTHER LAWS TO GS-16, 17, OR 18 PAY RATES

References in laws to the rates of pay for GS-16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, §101(c)(1)] of Pub. L. 101-509, set out in a note under section 5376 of Title 5.

#### USER FEES

Pub. L. 101-508, title I, §1204(e), Nov. 5, 1990, 104 Stat. 1388-11, provided that: “Notwithstanding any provision of the Omnibus Budget Reconciliation Act of 1990 [Pub. L. 101-508, see Tables for classification], nothing in this title or the other provisions of this Act shall be construed to require or authorize the Administrator of the Environmental Protection Agency to assess or collect any fees or charges for services and activities authorized under the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.).”

### § 136w-1. State primary enforcement responsibility

#### (a) In general

For the purposes of this subchapter, a State shall have primary enforcement responsibility for pesticide use violations during any period for which the Administrator determines that such State—

(1) has adopted adequate pesticide use laws and regulations, except that the Administrator may not require a State to have pesticide use laws that are more stringent than this subchapter;

(2) has adopted and is implementing adequate procedures for the enforcement of such State laws and regulations; and

(3) will keep such records and make such reports showing compliance with paragraphs (1)

and (2) of this subsection as the Administrator may require by regulation.

**(b) Special rules**

Notwithstanding the provisions of subsection (a) of this section, any State that enters into a cooperative agreement with the Administrator under section 136u of this title for the enforcement of pesticide use restrictions shall have the primary enforcement responsibility for pesticide use violations. Any State that has a plan approved by the Administrator in accordance with the requirements of section 136i of this title that the Administrator determines meets the criteria set out in subsection (a) of this section shall have the primary enforcement responsibility for pesticide use violations. The Administrator shall make such determinations with respect to State plans under section 136i of this title in effect on September 30, 1978, not later than six months after that date.

**(c) Administrator**

The Administrator shall have primary enforcement responsibility for those States that do not have primary enforcement responsibility under this subchapter. Notwithstanding the provisions of section 136(e)(1) of this title, during any period when the Administrator has such enforcement responsibility, section 136f(b) of this title shall apply to the books and records of commercial applicators and to any applicator who holds or applies pesticides, or uses dilutions of pesticides, only to provide a service of controlling pests without delivering any unapplied pesticide to any person so served, and section 136g(a) of this title shall apply to the establishment or other place where pesticides or devices are held for application by such persons with respect to pesticides or devices held for such application.

(June 25, 1947, ch. 125, §26, as added Pub. L. 95-396, §24(2), Sept. 30, 1978, 92 Stat. 836; amended Pub. L. 100-532, title VIII, §801(o), (q)(1)(D), Oct. 25, 1988, 102 Stat. 2683; Pub. L. 102-237, title X, §1006(a)(11), Dec. 13, 1991, 105 Stat. 1895.)

PRIOR PROVISIONS

A prior section 26 of act June 25, 1947, ch. 125, was re-numbered section 34 and is classified to section 136x of this title.

AMENDMENTS

1991—Subsec. (c). Pub. L. 102-237 substituted “uses” for “use”.

1988—Subsec. (a). Pub. L. 100-532, §801(o)(1), (2), inserted heading and substituted “regulations. The Administrator” for “regulations; *Provided*, That the Administrator” in par. (1).

Subsec. (b). Pub. L. 100-532, §801(o)(3), (q)(1)(D), inserted heading and substituted “136i” for “136b” in two places.

Subsec. (c). Pub. L. 100-532, §801(o)(4), inserted heading.

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.

**§ 136w-2. Failure by the State to assure enforcement of State pesticide use regulations**

**(a) Referral**

Upon receipt of any complaint or other information alleging or indicating a significant vio-

lation of the pesticide use provisions of this subchapter, the Administrator shall refer the matter to the appropriate State officials for their investigation of the matter consistent with the requirements of this subchapter. If, within thirty days, the State has not commenced appropriate enforcement action, the Administrator may act upon the complaint or information to the extent authorized under this subchapter.

**(b) Notice**

Whenever the Administrator determines that a State having primary enforcement responsibility for pesticide use violations is not carrying out (or cannot carry out due to the lack of adequate legal authority) such responsibility, the Administrator shall notify the State. Such notice shall specify those aspects of the administration of the State program that are determined to be inadequate. The State shall have ninety days after receipt of the notice to correct any deficiencies. If after that time the Administrator determines that the State program remains inadequate, the Administrator may rescind, in whole or in part, the State’s primary enforcement responsibility for pesticide use violations.

**(c) Construction**

Neither section 136w-1 of this title nor this section shall limit the authority of the Administrator to enforce this subchapter, where the Administrator determines that emergency conditions exist that require immediate action on the part of the Administrator and the State authority is unwilling or unable adequately to respond to the emergency.

(June 25, 1947, ch. 125, §27, as added Pub. L. 95-396, §24(2), Sept. 30, 1978, 92 Stat. 837; amended Pub. L. 100-532, title VIII, §801(p), Oct. 25, 1988, 102 Stat. 2683.)

PRIOR PROVISIONS

A prior section 27 of act June 25, 1947, ch. 125, was re-numbered section 35 and is classified to section 136y of this title.

AMENDMENTS

1988—Pub. L. 100-532 inserted headings for subsecs. (a) to (c).

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.

**§ 136w-3. Identification of pests; cooperation with Department of Agriculture’s program**

**(a) In general**

The Administrator, in coordination with the Secretary of Agriculture, shall identify those pests that must be brought under control. The Administrator shall also coordinate and cooperate with the Secretary of Agriculture’s research and implementation programs to develop and improve the safe use and effectiveness of chemical, biological, and alternative methods to combat and control pests that reduce the quality and economical production and distribution of agricultural products to domestic and foreign consumers.