

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 renumbered 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.

**(b) Pest control availability**

**(1) In general**

The Administrator, in cooperation with the Secretary of Agriculture, shall identify—

(A) available methods of pest control by crop or animal;

(B) minor pest control problems, both in minor crops and minor or localized problems in major crops; and

(C) factors limiting the availability of specific pest control methods, such as resistance to control methods and regulatory actions limiting the availability of control methods.

**(2) Report**

The Secretary of Agriculture shall, not later than 180 days after November 28, 1990, and annually thereafter, prepare a report and send the report to the Administrator. The report shall—

(A) contain the information described in paragraph (1);

(B) identify the crucial pest control needs where a shortage of control methods is indicated by the information described in paragraph (1); and

(C) describe in detail research and extension efforts designed to address the needs identified in subparagraph (B).

**(c) Integrated pest management**

The Administrator, in cooperation with the Secretary of Agriculture, shall develop approaches to the control of pests based on integrated pest management that respond to the needs of producers, with a special emphasis on minor pests.

**(d) Public health pests**

The Administrator, in coordination with the Secretary of Agriculture and the Secretary of Health and Human Services, shall identify pests of significant public health importance and, in coordination with the Public Health Service, develop and implement programs to improve and facilitate the safe and necessary use of chemical, biological, and other methods to combat and control such pests of public health importance.

(June 25, 1947, ch. 125, §28, as added Pub. L. 95-396, §24(2), Sept. 30, 1978, 92 Stat. 838; amended Pub. L. 101-624, title XIV, §1495, Nov. 28, 1990, 104 Stat. 3629; Pub. L. 104-127, title VIII, §862(b)(1), Apr. 4, 1996, 110 Stat. 1174; Pub. L. 104-170, title II, §236, Aug. 3, 1996, 110 Stat. 1509.)

AMENDMENTS

1996—Subsec. (b)(2)(A). Pub. L. 104-127 struck out “and the information required by section 5882 of this title” after “paragraph (1)”.

Subsec. (d). Pub. L. 104-170 added subsec. (d).

1990—Pub. L. 101-624 designated existing provisions as subsec. (a) and added subsecs. (b) and (c).

**§ 136w-4. Omitted**

CODIFICATION

Section, act June 25, 1947, ch. 125, §29, as added Pub. L. 95-396, §24(2), Sept. 30, 1978, 92 Stat. 838, which required the Administrator of the Environmental Protection Agency to submit an annual report to Congress re-

lating to applications filed for conditional registration under section 136a(c)(7)(B), (C) of this title, terminated, effective May 15, 2000, pursuant to section 3003 of Pub. L. 104-66, as amended, set out as a note under section 1113 of Title 31, Money and Finance. See, also, page 164 of House Document No. 103-7.

**§ 136w-5. Minimum requirements for training of maintenance applicators and service technicians**

Each State may establish minimum requirements for training of maintenance applicators and service technicians. Such training may include instruction in the safe and effective handling and use of pesticides in accordance with the Environmental Protection Agency approved labeling, and instruction in integrated pest management techniques. The authority of the Administrator with respect to minimum requirements for training of maintenance applicators and service technicians shall be limited to ensuring that each State understands the provisions of this section.

(June 25, 1947, ch. 125, §30, as added Pub. L. 104-170, title I, §121(2), Aug. 3, 1996, 110 Stat. 1492.)

PRIOR PROVISIONS

A prior section 30 of act June 25, 1947, ch. 125, was renumbered section 34 and is classified to section 136x of this title.

**§ 136w-6. Environmental Protection Agency minor use program**

(a) The Administrator shall assure coordination of minor use issues through the establishment of a minor use program within the Office of Pesticide Programs. Such office shall be responsible for coordinating the development of minor use programs and policies and consulting with growers regarding minor use issues and registrations and amendments which are submitted to the Environmental Protection Agency.

(b) The Office of Pesticide Programs shall prepare a public report concerning the progress made on the registration of minor uses, including implementation of the exclusive use as an incentive for registering new minor uses, within 3 years of the passage of the Food Quality Protection Act of 1996.

(June 25, 1947, ch. 125, §31, as added Pub. L. 104-170, title II, §210(i), Aug. 3, 1996, 110 Stat. 1500.)

REFERENCES IN TEXT

The passage of the Food Quality Protection Act of 1996, referred to in subsec. (b), probably means the date of enactment of Pub. L. 104-170, which was approved Aug. 3, 1996.

PRIOR PROVISIONS

A prior section 31 of act June 25, 1947, ch. 125, was renumbered section 35 and is classified to section 136y of this title.

**§ 136w-7. Department of Agriculture minor use program**

**(a) In general**

The Secretary of Agriculture (hereinafter in this section referred to as the "Secretary") shall

assure the coordination of the responsibilities of the Department of Agriculture related to minor uses of pesticides, including—

(1) carrying out the Inter-Regional Project Number 4 (IR-4) as described in section 2 of Public Law 89-106 (7 U.S.C. 450i(e)) and the national pesticide resistance monitoring program established under section 1651<sup>1</sup> of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5882);

(2) supporting integrated pest management research;

(3) consulting with growers to develop data for minor uses; and

(4) providing assistance for minor use registrations, tolerances, and reregistrations with the Environmental Protection Agency.

**(b) Minor use pesticide data and revolving fund**

**(1) Minor use pesticide data**

**(A) Grant authority**

The Secretary, in consultation with the Administrator, shall establish a program to make grants for the development of data to support minor use pesticide registrations and reregistrations. The amount of any such grant shall not exceed ½ of the cost of the project for which the grant is made.

**(B) Applicants**

Any person who wants to develop data to support minor use pesticide registrations and reregistrations may apply for a grant under subparagraph (A). Priority shall be given to an applicant for such a grant who does not directly receive funds from the sale of pesticides registered for minor uses.

**(C) Data ownership**

Any data that is developed under a grant under subparagraph (A) shall be jointly owned by the Department of Agriculture and the person who received the grant. Such a person shall enter into an agreement with the Secretary under which such person shall share any fee paid to such person under section 136a(c)(1)(F) of this title.

**(2) Minor Use Pesticide Data Revolving Fund**

**(A) Establishment**

There is established in the Treasury of the United States a revolving fund to be known as the Minor Use Pesticide Data Revolving Fund. The Fund shall be available without fiscal year limitation to carry out the authorized purposes of this subsection.

**(B) Contents of the Fund**

There shall be deposited in the Fund—

(i) such amounts as may be appropriated to support the purposes of this subsection; and

(ii) fees collected by the Secretary for any data developed under a grant under paragraph (1)(A).

**(C) Authorizations of appropriations**

There are authorized to be appropriated for each fiscal year to carry out the purposes of this subsection \$10,000,000 to remain available until expended.

<sup>1</sup> See References in Text note below.