

## PRIOR PROVISIONS

A prior section 10 of act June 25, 1947, was classified to section 135h of this title prior to amendment of act June 25, 1947, by Pub. L. 92-516.

## AMENDMENTS

1991—Subsec. (a). Pub. L. 102-237, §1006(b)(3)(J), substituted “the applicant’s” for “his”.

Subsec. (b). Pub. L. 102-237, §1006(b)(2), substituted “the Administrator’s” for “his”.

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

1988—Subsec. (d). Pub. L. 100-532 in par. (1), substituted “public. The use” for “public: *Provided*, That the use” and “title. This paragraph” for “title: *Provided further*, That this paragraph”, and in par. (3), “notice. Where” for “notice: *Provided*, That where”.

1984—Subsec. (d)(3). Pub. L. 98-620 struck out provisions requiring the court to give expedited consideration to actions involving injunctions or limitations of proposed disclosure.

1978—Subsec. (b). Pub. L. 95-396, §15(1), made disclosure of information by the Administrator subject to the limitations of subsecs. (d) and (e) of this section.

Subsecs. (d) to (g). Pub. L. 95-396, §15(2), added subsecs. (d) to (g).

## 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 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

For effective date of section, see section 4 of Pub. L. 92-516, set out as a note under section 136 of this title.

### § 136i. Use of restricted use pesticides; applicators

#### (a) Certification procedure

##### (1) Federal certification

In any State for which a State plan for applicator certification has not been approved by the Administrator, the Administrator, in consultation with the Governor of such State, shall conduct a program for the certification of applicators of pesticides. Such program shall conform to the requirements imposed upon the States under the provisions of subsection (a)(2) of this section and shall not require private applicators to take any examination to establish competency in the use of pesticides. Prior to the implementation of the program, the Administrator shall publish in the Federal Register for review and comment a summary of the Federal plan for applicator certification and shall make generally available within the State copies of the plan. The Administrator shall hold public hearings at one or more locations within the State if so requested by the Governor of such State during the thirty days following publication of the Federal Register notice inviting comment on the Federal plan. The hearings shall be held within thirty days following receipt of the request from the Governor. In any State in which the Administrator conducts a certification program, the Administrator may re-

quire any person engaging in the commercial application, sale, offering for sale, holding for sale, or distribution of any pesticide one or more uses of which have been classified for restricted use to maintain such records and submit such reports concerning the commercial application, sale, or distribution of such pesticide as the Administrator may by regulation prescribe. Subject to paragraph (2), the Administrator shall prescribe standards for the certification of applicators of pesticides. Such standards shall provide that to be certified, an individual must be determined to be competent with respect to the use and handling of the pesticides, or to the use and handling of the pesticide or class of pesticides covered by such individual’s certification. The certification standard for a private applicator shall, under a State plan submitted for approval, be deemed fulfilled by the applicator completing a certification form. The Administrator shall further assure that such form contains adequate information and affirmations to carry out the intent of this subchapter, and may include in the form an affirmation that the private applicator has completed a training program approved by the Administrator so long as the program does not require the private applicator to take, pursuant to a requirement prescribed by the Administrator, any examination to establish competency in the use of the pesticide. The Administrator may require any pesticide dealer participating in a certification program to be licensed under a State licensing program approved by the Administrator.

#### (2) State certification

If any State, at any time, desires to certify applicators of pesticides, the Governor of such State shall submit a State plan for such purpose. The Administrator shall approve the plan submitted by any State, or any modification thereof, if such plan in the Administrator’s judgment—

(A) designates a State agency as the agency responsible for administering the plan throughout the State;

(B) contains satisfactory assurances that such agency has or will have the legal authority and qualified personnel necessary to carry out the plan;

(C) gives satisfactory assurances that the State will devote adequate funds to the administration of the plan;

(D) provides that the State agency will make such reports to the Administrator in such form and containing such information as the Administrator may from time to time require; and

(E) contains satisfactory assurances that State standards for the certification of applicators of pesticides conform with those standards prescribed by the Administrator under paragraph (1).

Any State certification program under this section shall be maintained in accordance with the State plan approved under this section.

#### (b) State plans

If the Administrator rejects a plan submitted under subsection (a)(2), the Administrator shall

afford the State submitting the plan due notice and opportunity for hearing before so doing. If the Administrator approves a plan submitted under subsection (a)(2), then such State shall certify applicators of pesticides with respect to such State. Whenever the Administrator determines that a State is not administering the certification program in accordance with the plan approved under this section, the Administrator shall so notify the State and provide for a hearing at the request of the State, and, if appropriate corrective action is not taken within a reasonable time, not to exceed ninety days, the Administrator shall withdraw approval of such plan.

**(c) Instruction in integrated pest management techniques**

Standards prescribed by the Administrator for the certification of applicators of pesticides under subsection (a), and State plans submitted to the Administrator under subsection (a), shall include provisions for making instructional materials concerning integrated pest management techniques available to individuals at their request in accordance with the provisions of section 136u(c) of this title, but such plans may not require that any individual receive instruction concerning such techniques or to be shown to be competent with respect to the use of such techniques. The Administrator and States implementing such plans shall provide that all interested individuals are notified on the availability of such instructional materials.

**(d) In general**

No regulations prescribed by the Administrator for carrying out the provisions of this subchapter shall require any private applicator to maintain any records or file any reports or other documents.

**(e) Separate standards**

When establishing or approving standards for licensing or certification, the Administrator shall establish separate standards for commercial and private applicators.

(June 25, 1947, ch. 125, § 11, formerly §§ 4, 11, as added Pub. L. 92-516, § 2, Oct. 21, 1972, 86 Stat. 983, 989; amended Pub. L. 94-140, §§ 5, 11, Nov. 28, 1975, 89 Stat. 753, 754; Pub. L. 95-396, § 9, Sept. 30, 1978, 92 Stat. 827; Pub. L. 100-532, title VIII, § 801(c), (q)(1)(A)-(C), Oct. 25, 1988, 102 Stat. 2681, 2683; Pub. L. 102-237, title X, § 1006(a)(6), (b)(1), (2), (3)(K), Dec. 13, 1991, 105 Stat. 1895, 1896.)

CODIFICATION

Pub. L. 100-532, § 801(q)(1)(A), transferred subsecs. (a) to (c) of section 4 of act June 25, 1947, which was classified to section 136b of this title, to subsecs. (a) to (c) of this section.

PRIOR PROVISIONS

A prior section 11 of act June 25, 1947, was classified to section 135i of this title prior to amendment of act June 25, 1947, by Pub. L. 92-516.

AMENDMENTS

1991—Pub. L. 102-237, § 1006(a)(6)(A), substituted “applicators” for “applicators” in section catchline.

Subsec. (a)(1). Pub. L. 102-237, § 1006(b)(3)(K), substituted “the applicator” for “his” in ninth sentence and “the Administrator” for “him” before period at end.

Subsec. (a)(2). Pub. L. 102-237, § 1006(b)(2), substituted “the Administrator’s” for “his” in introductory provisions.

Subsec. (b). Pub. L. 102-237, § 1006(a)(6)(B), (b)(1), substituted “subsection (a)(2) of this section” for “this paragraph” in two places and “the Administrator” for “he” before “shall afford” and before “shall so notify”.

Subsec. (c). Pub. L. 102-237, § 1006(a)(6)(C), substituted “subsection (a)” for “subsections (a) and (b)” after “Administrator under”.

1988—Pub. L. 100-532, § 801(q)(1)(A), (C), substituted section catchline for one which read: “Standards applicable to pesticide applicators”, redesignated subsecs. (a) and (b) as (d) and (e), respectively, and transferred subsecs. (a) to (c) of section 136b of this title to subsecs. (a) to (c), respectively, of this section.

Subsec. (a)(1). Pub. L. 100-532, § 801(c), substituted “pesticides. Such program” for “pesticides: *Provided*, That such program” and “certification. The certification” for “certification: *Provided, however*, That the certification”.

1978—Subsec. (a)(1). Pub. L. 95-396 required that, in any State without a State plan for applicator certification approved by the Administrator, the Administrator, in consultation with the Governor of the State, shall conduct a program for the certification of applicators of pesticides under a Federal plan for applicator certification, and also that in such a State records be maintained and reports submitted by persons engaged in commercial application, sale or distribution of pesticides classified for restricted use.

1975—Subsec. (a)(1). Pub. L. 94-140, § 5, inserted proviso relating to Administrator’s powers and duties with respect to the certification forms and requirement for pesticide dealers participating in certification program.

Subsec. (c). Pub. L. 94-140, § 11, added subsec. (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.

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.

**§ 136i-1. Pesticide recordkeeping**

**(a) Requirements**

(1) The Secretary of Agriculture, in consultation with the Administrator of the Environmental Protection Agency, shall require certified applicators of restricted use pesticides (of the type described under section 136a(d)(1)(C) of this title) to maintain records comparable to 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