

INTERIM PAYMENTS

Pub. L. 100-532, title V, § 501(b), Oct. 25, 1988, 102 Stat. 2676, provided that:

“(1) SOURCE.—Any obligation of the Administrator to pay an indemnity arising under section 15 [this section], as it existed prior to the effective date of the amendment made by this section [see Effective Date of 1988 Amendment note above], shall be made from the appropriation provided under section 1304 of title 31, United States Code.

“(2) ADMINISTRATIVE SETTLEMENT.—An administrative settlement of a claim for such indemnity may be made in accordance with the third paragraph of section 2414 of title 28, United States Code, and shall be regarded as if it were made under that section for purposes of section 1304 of title 31, United States Code.”

§ 136n. Administrative procedure; judicial review**(a) District court review**

Except as otherwise provided in this subchapter, the refusal of the Administrator to cancel or suspend a registration or to change a classification not following a hearing and other final actions of the Administrator not committed to the discretion of the Administrator by law are judicially reviewable by the district courts of the United States.

(b) Review by court of appeals

In the case of actual controversy as to the validity of any order issued by the Administrator following a public hearing, any person who will be adversely affected by such order and who had been a party to the proceedings may obtain judicial review by filing in the United States court of appeals for the circuit wherein such person resides or has a place of business, within 60 days after the entry of such order, a petition praying that the order be set aside in whole or in part. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Administrator or any officer designated by the Administrator for that purpose, and thereupon the Administrator shall file in the court the record of the proceedings on which the Administrator based the Administrator's order, as provided in section 2112 of title 28. Upon the filing of such petition the court shall have exclusive jurisdiction to affirm or set aside the order complained of in whole or in part. The court shall consider all evidence of record. The order of the Administrator shall be sustained if it is supported by substantial evidence when considered on the record as a whole. The judgment of the court affirming or setting aside, in whole or in part, any order under this section shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28. The commencement of proceedings under this section shall not, unless specifically ordered by the court to the contrary, operate as a stay of an order.

(c) Jurisdiction of district courts

The district courts of the United States are vested with jurisdiction specifically to enforce, and to prevent and restrain violations of, this subchapter.

(d) Notice of judgments

The Administrator shall, by publication in such manner as the Administrator may prescribe, give notice of all judgments entered in

actions instituted under the authority of this subchapter.

(June 25, 1947, ch. 125, § 16, as added Pub. L. 92-516, § 2, Oct. 21, 1972, 86 Stat. 994; amended Pub. L. 98-620, title IV, § 402(4)(C), Nov. 8, 1984, 98 Stat. 3357; Pub. L. 100-532, title VIII, § 801(i), Oct. 25, 1988, 102 Stat. 2682; Pub. L. 102-237, title X, § 1006(b)(1), (2), (3)(P), Dec. 13, 1991, 105 Stat. 1895, 1896.)

AMENDMENTS

1991—Subsec. (b). Pub. L. 102-237, § 1006(b)(1), (2), (3)(P), substituted “the Administrator” for “he” before “based”, “the Administrator’s” for “his”, and “the Administrator” for “him” after “designated by”.

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

1988—Subsec. (a). Pub. L. 100-532 amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: “Except as is otherwise provided in this subchapter, Agency refusals to cancel or suspend registrations or change classifications not following a hearing and other final Agency actions not committed to Agency discretion by law are judicially reviewable in the district courts.”

1984—Subsec. (b). Pub. L. 98-620 struck out provisions requiring the court to advance on the docket and expedite the disposition of all cases filed pursuant to this section.

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.

§ 136o. Imports and exports**(a) Pesticides and devices intended for export**

Notwithstanding any other provision of this subchapter, no pesticide or device or active ingredient used in producing a pesticide intended solely for export to any foreign country shall be deemed in violation of this subchapter—

(1) when prepared or packed according to the specifications or directions of the foreign purchaser, except that producers of such pesticides and devices and active ingredients used in producing pesticides shall be subject to sections 136(p), 136(q)(1)(A), (C), (D), (E), (G), and (H), 136(q)(2)(A), (B), (C)(i) and (iii), and (D), 136e, and 136f of this title; and

(2) in the case of any pesticide other than a pesticide registered under section 136a or sold under section 136d(a)(1) of this title, if, prior to export, the foreign purchaser has signed a statement acknowledging that the purchaser understands that such pesticide is not registered for use in the United States and cannot be sold in the United States under this subchapter.

A copy of that statement shall be transmitted to an appropriate official of the government of the importing country.

(b) Cancellation notices furnished to foreign governments

Whenever a registration, or a cancellation or suspension of the registration of a pesticide becomes effective, or ceases to be effective, the Administrator shall transmit through the State Department notification thereof to the governments of other countries and to appropriate international agencies. Such notification shall, upon request, include all information related to the cancellation or suspension of the registration of the pesticide and information concerning other pesticides that are registered under section 136a of this title and that could be used in lieu of such pesticide.

(c) Importation of pesticides and devices

(1) In general

The Secretary of the Treasury shall notify the Administrator of the arrival of pesticides and devices and shall deliver to the Administrator, upon the Administrator's request, samples of pesticides or devices which are being imported into the United States, giving notice to the owner or consignee, who may appear before the Administrator and have the right to introduce testimony. If it appears from the examination of a sample that it is adulterated, or misbranded or otherwise violates the provisions set forth in this subchapter, or is otherwise injurious to health or the environment, the pesticide or device may be refused admission, and the Secretary of the Treasury shall refuse delivery to the consignee and shall cause the destruction of any pesticide or device refused delivery which shall not be exported by the consignee within 90 days from the date of notice of such refusal under such regulations as the Secretary of the Treasury may prescribe. The Secretary of the Treasury may deliver to the consignee such pesticide or device pending examination and decision in the matter on execution of bond for the amount of the full invoice value of such pesticide or device, together with the duty thereon, and on refusal to return such pesticide or device for any cause to the custody of the Secretary of the Treasury, when demanded, for the purpose of excluding them from the country, or for any other purpose, said consignee shall forfeit the full amount of said bond. All charges for storage, cartage, and labor on pesticides or devices which are refused admission or delivery shall be paid by the owner or consignee, and in default of such payment shall constitute a lien against any future importation made by such owner or consignee.

(2) Importation of seed

Notwithstanding any other provision of law, no person is required to notify the Administrator of the arrival of a plant-incorporated protectant (as defined in section 174.3 of title 40, Code of Federal Regulations (or any successor regulation)) that is contained in a seed, if—

(A) that plant-incorporated protectant is registered under section 136a of this title;

(B) the Administrator has issued an experimental use permit for that plant-incorporated protectant under section 136c of this title; or

(C) the seed is covered by a permit (as defined in part 340 of title 7, Code of Federal Regulations (or any successor regulation)) or a notification.

(3) Cooperation

(A) In general

In response to a request from the Administrator, the Secretary of Agriculture shall provide to the Administrator a list of seed containing plant-incorporated protectants (as defined in section 174.3 of title 40, Code of Federal Regulations (or any successor regulation)) if the importation of that seed into the United States has been approved under a permit or notification referred to in paragraph (2).

(B) Contents

The list under subparagraph (A) shall be provided in a form and at such intervals as may be agreed to by the Secretary and the Administrator.

(4) Applicability

Nothing in this subsection precludes or limits the authority of the Secretary of Agriculture with respect to the importation or movement of plants, plant products, or seeds under—

(A) the Plant Protection Act (7 U.S.C. 7701 et seq.); and

(B) the Federal Seed Act (7 U.S.C. 1551 et seq.).

(d) Cooperation in international efforts

(1) In general

The Administrator shall, in cooperation with the Department of State and any other appropriate Federal agency, participate and cooperate in any international efforts to develop improved pesticide research and regulations.

(2) Department of State expenses

Any expenses incurred by an employee of the Environmental Protection Agency who participates in any international technical, economic, or policy review board, committee, or other official body that is meeting in relation to an international treaty shall be paid by the Department of State.

(e) Regulations

The Secretary of the Treasury, in consultation with the Administrator, shall prescribe regulations for the enforcement of subsection (c) of this section.

(June 25, 1947, ch. 125, §17, as added Pub. L. 92-516, §2, Oct. 21, 1972, 86 Stat. 995; amended Pub. L. 95-396, §18(a), Sept. 30, 1978, 92 Stat. 833; Pub. L. 100-532, title VIII, §801(j), Oct. 25, 1988, 102 Stat. 2682; Pub. L. 102-237, title X, §1006(a)(9), (b)(2), Dec. 13, 1991, 105 Stat. 1895; Pub. L. 110-234, title XIV, §14209(a), May 22, 2008, 122 Stat. 1463; Pub. L. 110-246, §4(a), title XIV, §14209(a), June 18, 2008, 122 Stat. 1664, 2225; Pub. L. 113-79, title X, §10008, Feb. 7, 2014, 128 Stat. 948.)

REFERENCES IN TEXT

The Plant Protection Act, referred to in subsec. (c)(4)(A), is title IV of Pub. L. 106-224, June 20, 2000, 114

Stat. 438, which is classified principally to chapter 104 (§7701 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 7701 of this title and Tables.

The Federal Seed Act, referred to in subsec. (c)(4)(B), is act Aug. 9, 1939, ch. 615, 53 Stat. 1275, which is classified generally to chapter 37 (§1551 et seq.) of this title. For complete classification of this Act to the Code, see section 1551 of this title and Tables.

CODIFICATION

Pub. L. 110-234 and Pub. L. 110-246 made identical amendments to this section. The amendments by Pub. L. 110-234 were repealed by section 4(a) of Pub. L. 110-246.

AMENDMENTS

2014—Subsec. (c). Pub. L. 113-79 designated existing provisions as par. (1), inserted heading, and added pars. (2) to (4).

2008—Subsec. (d). Pub. L. 110-246, §14209(a), designated existing provisions as par. (1), inserted heading, and added par. (2).

1991—Subsec. (a). Pub. L. 102-237, §1006(a)(9), removed last sentence from par. (2) and placed it as a full measure sentence under par. (2).

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

1988—Subsec. (c). Pub. L. 100-532 substituted “prescribe. The Secretary” for “prescribe: *Provided*, That the Secretary” and “bond. All” for “bond: *And provided further*, That all”.

1978—Subsec. (a). Pub. L. 95-396, §18(a)(1), amended subsec. (a) generally.

Subsec. (b). Pub. L. 95-396, §18(a)(2), inserted sentence at end relating to information to be included in notification.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110-234 by Pub. L. 110-246 effective May 22, 2008, the date of enactment of Pub. L. 110-234, see section 4 of Pub. L. 110-246, set out as an Effective Date note under section 8701 of this title.

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 1978 AMENDMENT

Pub. L. 95-396, §18(b), Sept. 30, 1978, 92 Stat. 833, provided that: “The amendment made by subsection (a)(1) of this section [amending this section] shall become effective one hundred and eighty days after the date of enactment of this Act [Sept. 30, 1978].”

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.

§ 136p. Exemption of Federal and State agencies

The Administrator may, at the Administrator’s discretion, exempt any Federal or State agency from any provision of this subchapter if the Administrator determines that emergency conditions exist which require such exemption. The Administrator, in determining whether or not such emergency conditions exist, shall consult with the Secretary of Agriculture and the Governor of any State concerned if they request such determination.

(June 25, 1947, ch. 125, §18, as added Pub. L. 92-516, §2, Oct. 21, 1972, 86 Stat. 995; amended Pub. L. 94-140, §8, Nov. 28, 1975, 89 Stat. 754; Pub. L. 100-532, title VIII, §801(k), Oct. 25, 1988, 102

Stat. 2682; Pub. L. 102-237, title X, §1006(b)(1), (2), Dec. 13, 1991, 105 Stat. 1895.)

AMENDMENTS

1991—Pub. L. 102-237 substituted “the Administrator” for “he” before “determines” and “the Administrator’s” for “his”.

1988—Pub. L. 100-532 substituted “and” for “or” in section catchline, and directed that sentence beginning “The Administrator, in” be run in after first sentence beginning “The Administrator may”.

1975—Pub. L. 94-140 inserted provision requiring Administrator to consult with Secretary of Agriculture and Governor of State concerned in determining whether an emergency situation exists.

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.

§ 136q. Storage, disposal, transportation, and recall

(a) Storage, disposal, and transportation

(1) Data requirements and registration of pesticides

The Administrator may require under section 136a or 136d of this title that—

(A) the registrant or applicant for registration of a pesticide submit or cite data or information regarding methods for the safe storage and disposal of excess quantities of the pesticide to support the registration or continued registration of a pesticide;

(B) the labeling of a pesticide contain requirements and procedures for the transportation, storage, and disposal of the pesticide, any container of the pesticide, any rinsate containing the pesticide, or any other material used to contain or collect excess or spilled quantities of the pesticide; and

(C) the registrant of a pesticide provide evidence of sufficient financial and other resources to carry out a recall plan under subsection (b), and provide for the disposition of the pesticide, in the event of suspension and cancellation of the pesticide.

(2) Pesticides

The Administrator may by regulation, or as part of an order issued under section 136d of this title or an amendment to such an order—

(A) issue requirements and procedures to be followed by any person who stores or transports a pesticide the registration of which has been suspended or canceled;

(B) issue requirements and procedures to be followed by any person who disposes of stocks of a pesticide the registration of which has been suspended; and

(C) issue requirements and procedures for the disposal of any pesticide the registration of which has been canceled.

(3) Containers, rinsates, and other materials

The Administrator may by regulation, or as part of an order issued under section 136d of this title or an amendment to such an order—