

Public Law 94-140
94th Congress

An Act

To extend the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, and for other purposes.

Nov. 28, 1975

[H.R. 8841]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 6(b) of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, is amended—

Federal
Insecticide,
Fungicide, and
Rodenticide Act,
extension.
7 USC 136d.

(1) by inserting the following new sentences immediately after the second sentence thereof: "In determining whether to issue any such notice, the Administrator shall include among those factors to be taken into account the impact of the action proposed in such notice on production and prices of agricultural commodities, retail food prices, and otherwise on the agricultural economy. At least 60 days prior to sending such notice to the registrant or making public such notice, whichever occurs first, the Administrator shall provide the Secretary of Agriculture with a copy of such notice and an analysis of such impact on the agricultural economy. If the Secretary comments in writing to the Administrator regarding the notice and analysis within 30 days after receiving them, the Administrator shall publish in the Federal Register (with the notice) the comments of the Secretary and the response of the Administrator with regard to the Secretary's comments. If the Secretary does not comment in writing to the Administrator regarding the notice and analysis within 30 days after receiving them, the Administrator may notify the registrant and make public the notice at any time after such 30-day period notwithstanding the foregoing 60-day time requirement. The time requirements imposed by the preceding 3 sentences may be waived or modified to the extent agreed upon by the Administrator and the Secretary. Notwithstanding any other provision of this subsection (b) and section 25(d), in the event that the Administrator determines that suspension of a pesticide registration is necessary to prevent an imminent hazard to human health, then upon such a finding the Administrator may waive the requirement of notice to and consultation with the Secretary of Agriculture pursuant to subsection (b) and of submission to the Scientific Advisory Panel pursuant to section 25(d) and proceed in accordance with subsection (c)."; and

Publication in
Federal Register.

Ante, p. 753.

(2) by adding the following new sentence at the end of such section 6(b): "In taking any final action under this subsection, the Administrator shall include among those factors to be taken into account the impact of such final action on production and prices of agricultural commodities, retail food prices, and otherwise on the agricultural economy, and he shall publish in the Federal Register an analysis of such impact."

SEC. 2. (a) Section 25(a) of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, is amended—

7 USC 136w.

(1) by inserting "(1)" immediately after "(a)";

(2) by inserting ", in accordance with the procedure described in paragraph (2)," immediately after "is authorized" in the first sentence; and

(3) by adding the following new paragraph at the end thereof:
 “(2) PROCEDURE.—

Publication in
Federal Register.

“(A) PROPOSED REGULATIONS.—At least 60 days prior to signing any proposed regulation for publication in the Federal Register, the Administrator shall provide the Secretary of Agriculture with a copy of such regulation. If the Secretary comments in writing to the Administrator regarding any such regulation within 30 days after receiving it, the Administrator shall publish in the Federal Register (with the proposed regulation) the comments of the Secretary and the response of the Administrator with regard to the Secretary’s comments. If the Secretary does not comment in writing to the Administrator regarding the regulation within 30 days after receiving it, the Administrator may sign such regulation for publication in the Federal Register any time after such 30-day period notwithstanding the foregoing 60-day time requirement.

Publication in
Federal Register.

“(B) FINAL REGULATIONS.—At least 30 days prior to signing any regulation in final form for publication in the Federal Register, the Administrator shall provide the Secretary of Agriculture with a copy of such regulation. If the Secretary comments in writing to the Administrator regarding any such final regulation within 15 days after receiving it, the Administrator shall publish in the Federal Register (with the final regulation) the comments of the Secretary, if requested by the Secretary, and the response of the Administrator concerning the Secretary’s comments. If the Secretary does not comment in writing to the Administrator regarding the regulation within 15 days after receiving it, the Administrator may sign such regulation for publication in the Federal Register at any time after such 15-day period notwithstanding the foregoing 30-day time requirement.

Waiver or
modification.

“(C) TIME REQUIREMENTS.—The time requirements imposed by subparagraphs (A) and (B) may be waived or modified to the extent agreed upon by the Administrator and the Secretary.

“(D) PUBLICATION IN THE FEDERAL REGISTER.—The Administrator shall, simultaneously with any notification to the Secretary of Agriculture under this paragraph prior to the issuance of any proposed or final regulation, publish such notification in the Federal Register.”.

7 USC 136s.

(b) Section 21(a) of such Act is amended by inserting the following immediately before the period: “in accordance with the procedure described in section 25(a)”.

7 USC 136w.
Appropriation
authorization.
7 USC 136y.

SEC. 3. Section 27 of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, is amended by adding at the end thereof the following:

“There are hereby authorized to be appropriated to carry out the provisions of this Act for the period beginning October 1, 1975, and ending September 30, 1976, the sum of \$47,868,000, and for the period beginning October 1, 1976, and ending March 31, 1977, the sum of \$23,600,000.”.

7 USC 136 note.

SEC. 4. Section 4 of the Federal Environmental Pesticide Control Act of 1972 is amended—

(i) In subsection (b) by striking the words “four years” and inserting in lieu thereof the words “five years”;

(ii) In paragraph (c) (2) by striking the words “four years” and inserting in lieu thereof the words “five years”;

(iii) In paragraph (c) (3) by striking the words “four years” and inserting in lieu thereof the words “five years”;

(iv) In paragraph (c) (4) by striking the words "four years" and inserting in lieu thereof the words "five years"; and

(v) In paragraph (c) (4) (B) by striking the words "three years" and inserting in lieu thereof the words "four years".

SEC. 5. Section 4 of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, is amended by deleting the period at the end of subsection (a) (1) and inserting the following: "*Provided, however,* That the certification standard for a private applicator shall, under a State plan submitted for approval, be deemed fulfilled by his completing a certification form. The Administrator shall further assure that such form contains adequate information and affirmations to carry out the intent of this Act, 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 him."

SEC. 6. Section 25(a) of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, is amended by adding a new paragraph (3) at the end thereof as follows:

"(3) CONGRESSIONAL COMMITTEES.—At such time as the Administrator is required under paragraph (2) of this subsection to provide the Secretary of Agriculture with a copy of proposed regulations and a copy of the final form of regulations, he shall also furnish a copy of such regulations to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture and Forestry of the Senate."

SEC. 7. Section 25 of the Federal Insecticide, Fungicide, and Rodenticide Act is amended by the addition at the end thereof of the following new subsection (d):

"(d) SCIENTIFIC ADVISORY PANEL.—The Administrator shall submit to an advisory panel for comment as to the impact on health and the environment of the action proposed in notices of intent issued under section 6(b) and of the proposed and final form of regulations issued under section 25(a) within the same time periods as provided for the comments of the Secretary of Agriculture under such sections. The time requirements for notices of intent and proposed and final forms of regulation may not be modified or waived unless in addition to meeting the requirements of section 6(b) or 25(a), as applicable, the advisory panel has failed to comment on the proposed action within the prescribed time period or has agreed to the modification or waiver. The comments of the advisory panel and the response of the Administrator shall be published in the Federal Register in the same manner as provided for publication of the comments of the Secretary of Agriculture under such sections. The panel referred to in this subsection shall consist of seven members appointed by the Administrator from a list of 12 nominees, six nominated by the National Institutes of Health, and six by the National Science Foundation. The Administrator may require such information from the nominees to the advisory panel as he deems necessary, and he shall publish in the Federal Register the name, address, and professional affiliations of each nominee. Each member of the panel shall receive per diem compensation at a rate not in excess of that fixed for GS-18 of the General Schedule as may be determined by the Administrator, except that any such member who holds another office or position under the Fed-

7 USC 136b.

7 USC 136w.

7 USC 136w.

7 USC 136d.

7 USC 136w.

Publication in
Federal Register.

Members.

Publication in
Federal Register.

Compensation.

5 USC 5332 note.

eral Government the compensation for which exceeds such rate may elect to receive compensation at the rate provided for such other office or position in lieu of the compensation provided by this subsection. In order to assure the objectivity of the advisory panel, the Administrator shall promulgate regulations regarding conflicts of interest with respect to the members of the panel."

Regulations.

Consultation.
USC 136p.

SEC. 8. Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, is amended by adding at the end thereof the following new sentence:

"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."

7 USC 136.

SEC. 9. Section 2(u) of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, is hereby amended to read as follows:

"(u) PESTICIDE.—The term 'pesticide' means (1) any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest, and (2) any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant: *Provided*, That the term 'pesticide' shall not include any article (1) (a) that is a 'new animal drug' within the meaning of section 201(w) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(w)), or (b) that has been determined by the Secretary of Health, Education, and Welfare not to be a new animal drug by a regulation establishing conditions of use for the article, or (2) that is an animal feed within the meaning of section 201(x) of such Act (21 U.S.C. 321(x)) bearing or containing an article covered by clause (1) of this proviso."

7 USC 136c.

SEC. 10. Section 5 of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, is amended by adding at the end thereof the following new subsection:

"(g) EXEMPTION FOR AGRICULTURAL RESEARCH AGENCIES.—Notwithstanding the foregoing provisions of this section, the Administrator may issue an experimental use permit for a pesticide to any public or private agricultural research agency or educational institution which applies for such permit. Each permit shall not exceed more than a one-year period or such other specific time as the Administrator may prescribe. Such permit shall be issued under such terms and conditions restricting the use of the pesticide as the Administrator may require: *Provided*, That such pesticide may be used only by such research agency or educational institution for purposes of experimentation."

7 USC 136b.

SEC. 11. Section 4 of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, is amended by adding at the end thereof the following new subsection:

"(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 subsections (a) and (b), 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 23(c) of this Act, but such plans may not require that any individual receive instruction concerning such techniques or 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 of the availability of such instructional materials."

7 USC 136a.

SEC. 12. Section 3(c) (1) (D) of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, is amended to read as follows:

7 USC 136a.
Test data.

“(D) if requested by the Administrator, a full description of the tests made and the results thereof upon which the claims are based, except that data submitted on or after January 1, 1970, in support of an application shall not, without permission of the applicant, be considered by the Administrator in support of any other application for registration unless such other applicant shall have first offered to pay reasonable compensation for producing the test data to be relied upon and such data is not protected from disclosure by section 10(b). This provision with regard to compensation for producing the test data to be relied upon shall apply with respect to all applications for registration or reregistration submitted on or after October 21, 1972. If the parties cannot agree on the amount and method of payment, the Administrator shall make such determination and may fix such other terms and conditions as may be reasonable under the circumstances. The Administrator’s determination shall be made on the record after notice and opportunity for hearing. If either party does not agree with said determination, he may, within thirty days, take an appeal to the Federal district court for the district in which he resides with respect to either the amount of the payment or the terms of payment, or both. Registration shall not be delayed pending the determination of reasonable compensation between the applicants, by the Administrator or by the court.”

7 USC 136h.

Notice and hearing.
Appeal.

Approved November 28, 1975.

LEGISLATIVE HISTORY:

- HOUSE REPORTS: No. 94-497 (Comm. on Agriculture) and No. 94-668 (Comm. of Conference).
- SENATE REPORT No. 94-452 (Comm. on Agriculture and Forestry).
- CONGRESSIONAL RECORD, Vol. 121 (1975):
 - Sept. 26, Oct. 3, 9, considered and passed House.
 - Nov. 12, considered and passed Senate, amended.
 - Nov. 18, House agreed to conference report.
 - Nov. 19, Senate agreed to conference report.