

**PENNSYLVANIA PESTICIDE CONTROL ACT OF 1973**

**Act of Mar. 1, 1974, P.L. 90, No. 24**

**Cl. 03**

AN ACT

Relating to the labeling, distribution, storage, transportation, use, application and disposal of pesticides and devices; providing for registration and examination of such materials; the licensing of pesticide dealers and pest management consultants and imposing penalties.

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The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Short Title.--This act shall be known and may be cited as the "Pennsylvania Pesticide Control Act of 1973."

Section 2. Enforcing Official.--This act shall be administered by the Secretary of Agriculture, hereinafter referred to as the secretary.

Section 3. Declaration of Purpose.--The Legislature hereby finds that pesticides are valuable to our State's agricultural production and to the protection of man and the environment from insects, rodents, weeds, and other forms of life which may be pests; but it is essential to the public health and welfare that they be regulated to prevent adverse effects on human life and the environment. The purpose of this act is to regulate in the public interest, the labeling, distribution, storage, transportation, use, application, and disposal of pesticides. New pesticides are continually being discovered or synthesized which are valuable for the control of pests, and for use as defoliants, desiccants, plant regulators, and related purposes. The dissemination of accurate scientific information as to the proper use of any pesticide, is vital to the public health and welfare and to the environment both immediate and future.

Section 4. Definitions.--As used in this act:

(1) "Active ingredient" means:

(i) in the case of a pesticide other than a plant regulator, defoliant, or desiccant, an ingredient which will prevent, destroy, repel, or mitigate any pest;

(ii) in the case of a plant regulator, an ingredient which, through physiological action, will accelerate or retard the rate of growth or rate of maturation or otherwise alter the behavior of ornamental or crop plants or the product thereof;

(iii) in the case of a defoliant, an ingredient which will cause the leaves or foliage to drop from a plant; and

(iv) in the case of a desiccant, an ingredient which will artificially accelerate the drying of plant tissue.

(2) "Administrator" means the administrator of the Federal Environmental Protection Agency.

(3) "Adulterated" applies to any pesticide if:

(i) its strength or purity falls below the professed standard of quality as expressed on its labeling under which it is sold;

(ii) any substance has been substituted wholly or in part for the pesticide; or

(iii) any valuable constituent of the pesticide has been wholly or in part abstracted.

(4) "Animal" means all vertebrate and invertebrate species, including but not limited to man and other mammals, birds, fish, and shellfish.

(5) "Antidote" means a practical treatment in case of poisoning and includes first-aid treatment.

(6) "Applicator" means certified applicator, private applicator, commercial applicator or public applicator.

(A) "Certified applicator" means any individual who is certified under section 16.1, 17 or 17.1 of this act as competent to use or supervise the use or application of any pesticide.

(B) "Private applicator" means a certified applicator who uses or supervises the use of any pesticide which is classified for restricted use for purposes of producing any agricultural commodity on property owned or rented by him or his employer or, if applied without compensation other than trading of personal services between producers of agricultural commodities, on the property of another person.

(C) "Commercial applicator" means a certified applicator (whether or not he is a private applicator with respect to some uses) who uses or supervises the use of any pesticide on the property or premises of another, or on easements granted under State law, or any applicator who uses or supervises the use of any restricted use pesticide on property owned or rented by him or his employer, when not for purposes of producing an agricultural product. The secretary may by regulation deem certain types of applicators using any pesticide on their own property or that of his employer as commercial applicators.

(D) "Public applicator" means any certified applicator who applies pesticides as an employe of the State or its instrumentalities or any local agency.

(E) "Pesticide application technician" means any individual employed by a commercial applicator or governmental agency who, having met the competency requirements of section 16.1 of this act, is registered by the secretary to apply any pesticides under the direct supervision of a certified applicator.

((6) amended Dec. 12, 1986, P.L.1542, No.167)

(7) "Beneficial insects" means those insects which, during their life cycle, are effective pollinators of plants, are parasites or predators of pests, or are otherwise beneficial.

(8) "Board" means the Pesticide Advisory Board.

(9) "Defoliant" means any substance or mixture of substances intended for causing the leaves or foliage to drop from a plant, with or without causing abscission.

(9.1) "Department" means the Department of Agriculture of the Commonwealth. ((9.1) added Dec. 12, 1986, P.L.1542, No.167)

(10) "Desiccant" means any substance or mixture of substances intended for artificially accelerating the drying of plant tissue.

(11) "Device" means any instrument or contrivance (other than a firearm) which is intended for trapping, destroying, repelling, or mitigating any pest or any other form of plant or animal life (other than man and other than bacteria, virus, or other microorganism on or in living man or other living animals); but not including equipment used for the application of pesticides when sold separately therefrom.

(12) "Distribute" means to offer for sale, hold for sale, sell, barter, or supply pesticides in this State.

(13) "Environment" includes water, air, land, and all plants and man and other animals living therein, and the interrelationships which exist among these.

(14) "Equipment" means any type of ground, water or aerial equipment or contrivance using motorized, mechanical or pressurized power and used to apply any pesticide on land and anything that may be growing, habitating or stored on or in such land, but shall not include any pressurized hand-sized household apparatus used to apply any pesticide, or any equipment or contrivance of which the person who is applying the pesticide is the source of power or energy in pesticide application.

(15) "Establishment" means any place where a pesticide or device is produced, or held, for distribution or sale.

(16) "Fungus" means any non-chlorophyll bearing thallophyte (that is, any non-chlorophyll bearing plant of a lower order than mosses and liverworts), as for example, rust, smut, mildew, mold, yeast, and bacteria, except those on or in living man or other animals and those on or in processed food, beverages, or pharmaceuticals.

(17) "Highly toxic" means any highly toxic pesticide as determined by the administrator.

(18) "Imminent hazard" means a situation which exists when the continued use of a pesticide during the time required for cancellation proceeding would be likely to result in unreasonable adverse effects on the environment or will involve unreasonable hazard to the survival of a species declared endangered by the Secretary of the Interior of the United States under Public Law 91-135.

(19) "Inert ingredient" means an ingredient which is not active.

(20) "Ingredient statement" means a statement which contains:

(i) the name and percentage of each active ingredient, and the total percentage of all inert ingredients, in the pesticide; and

(ii) if the pesticide contains arsenic in any form, a statement of the percentages of total and water soluble arsenic, calculated as elementary arsenic.

(21) "Insect" means any of the numerous small invertebrate animals generally having the body more or less obviously segmented, for the most part belonging to the class insecta, comprising six-legged, usually winged forms, as for example, beetles, bugs, bees, flies, and to other allied classes of arthropods whose members are wingless and usually have more than six legs, as for example, spiders, mites, ticks, centipedes, and wood lice.

(22) "Label" means the written, printed, or graphic matter on, or attached to, the pesticide or device or any of its containers or wrappers.

(23) "Labeling" pertaining to pesticide registration means all labels and all other written, printed, or graphic matter:

(i) accompanying the pesticide or device at any time; or  
(ii) to which reference is made on the label or in literature accompanying the pesticide or device, except to current official publications of the Federal Environmental Protection Agency, the United States Departments of Agriculture and Interior, the Department of Health, Education and Welfare, State experiment stations, State agricultural colleges, and other similar Federal or State institutions or agencies authorized by law to conduct research in the field of pesticides.

(24) "Land" means all land and water areas, including airspace, and all plants, animals, structures, buildings,

contrivances, and machinery appurtenant thereto or situated thereon, fixed or mobile, including any used for transportation.

(24.1) "License" means written permission, issued by the department, to a business or person as authorized in sections 12, 13 and 15.1 of this act. ((24.1) added Dec. 12, 1986, P.L.1542, No.167)

(24.2) "Local agency" means a governmental unit other than the Commonwealth government. The term shall include, but not be limited to, a county, city, borough, town, township, school district or municipal authority. ((24.2) added Dec. 12, 1986, P.L.1542, No.167)

(25) "Misbranded" means any pesticide which fails to be labeled in accordance with section 2, definitions - (q) misbranded - of the "Federal Insecticide, Fungicide and Rodenticide Act of 1947," as amended in 1972.

(26) ((26) deleted by amendment Dec. 12, 1986, P.L.1542, No.167)

(27) "Nematode" means invertebrate animals of the phylum nemathelminthes and class nematoda, that is unsegmented round worms with elongated, fusiform, or saclike bodies covered with cuticle, and inhabiting soil, water, plants, or plant parts; may also be called nemas or eelworms.

(28) "Permit" means a written certificate, issued by the secretary or his authorized agent, authorizing the purchase, possession, and/or use of pesticides classified for restricted use by a private applicator. ((28) amended Dec. 12, 1986, P.L.1542, No.167)

(29) "Person" means any individual, partnership, association, corporation, or any organized group of persons whether incorporated or not.

(30) "Pest" means any insect, rodent, nematode, fungus, weed, or any other form of terrestrial or aquatic plant or animal life or virus, bacteria, or other microorganism (except viruses, bacteria, or other microorganisms on or in living man or other living animals) which the administrator declares to be a pest under section 25(c)(1) of the "Federal Insecticide, Fungicide and Rodenticide Act of 1947," as amended in 1972.

(31) "Pesticide" means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest, and any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant.

(32) "Pesticide dealer" means any person who sells or distributes pesticides classified for "restricted use."

(33) "Pest management consultant" means any individual who is not a licensed applicator, and who for a fee offers, or supplies technical advice, supervision or aid, or makes recommendations to the user of pesticides classified for restricted use.

(34) "Plant regulator" means any substance or mixture of substances intended, through physiological action, for accelerating or retarding the rate of growth or rate of maturation, or for otherwise altering the behavior of plants or the produce thereof, but shall not include substances to the extent that they are intended as plant nutrients, trace elements, nutritional chemicals, plant inoculants, and soil amendments. Also, the term "plant regulator" shall not be required to include any of such of those nutrient mixtures or soil amendments as are commonly known as vitamin-hormone horticultural products, intended for improvement, maintenance, survival, health, and propagation of plants, and as are not for pest destruction and are nontoxic, nonpoisonous in the undiluted packaged concentration.

(35) "Producer and produce". The term "producer" means the person who manufactures, prepares, compounds, propagates, or processes any pesticide or device. The term "produce" means to manufacture, prepare, compound, propagate, or process any pesticide or device.

(36) "Protect health and the environment" mean protection against any unreasonable adverse effects on the environment.

(37) "Registrant" means a person who has registered any pesticide pursuant to the provisions of this act.

(38) "Registration" includes reregistration.

(39) "Restricted use" means the use of a pesticide which is classified as a restricted use pursuant to section 3(d) of the "Federal Insecticide, Fungicide and Rodenticide Act of 1947," as amended in 1972.

(39.1) "Secretary" means the Secretary of Agriculture of the Commonwealth. ((39.1) added Dec. 12, 1986, P.L.1542, No.167)

(40) "Snails or slugs" includes all harmful mollusks.

(40.1) "Under the direct supervision of a certified commercial or public applicator," unless otherwise prescribed by labeling, means application by a registered pesticide application technician acting under the instructions and control of a certified applicator who is available if and when needed, even though such certified applicator is not physically present at the time and place the pesticide is applied, or application by a crew of noncertified or nonregistered employes working under the instruction and control of a certified commercial or public applicator who is physically present at the job site. ((40.1) added Dec. 12, 1986, P.L.1542, No.167)

(41) "Unreasonable adverse effects on the environment" means any unreasonable risk to man or the environment, taking into account the economic, social, and environmental costs and benefits of the use of any pesticide.

(42) "Weed" means any plant which grows where not wanted.

(43) "Wildlife" means all living things that are neither human, domesticated, nor, as defined in this act, pests; including, but not limited to mammals, birds, and aquatic life.

Section 5. Registration.--(5 repealed Dec. 12, 1986, P.L.1542, No.167)

Section 5.1. Registration.--(a) Every pesticide which is distributed in this State shall be registered with the secretary, subject to the provisions of this act. Such registration shall be renewed annually prior to January 1, but registration is not required if a pesticide is shipped from one plant or warehouse to another plant or warehouse operated by the same person and used solely at such place or warehouse as a constituent part to make a pesticide which is registered under the provisions of this act or if the pesticide is distributed under the provisions of an experimental use permit issued under section 7 of this act or an experimental use permit issued by the Federal Environmental Protection Agency.

(b) The applicant for registration shall file a statement with the secretary which shall include:

(1) The name and address of the applicant and the name and address of the person whose name will appear on the label, if other than the applicant's.

(2) The name of the pesticide.

(3) Other information which the secretary determines is necessary based on a validated test or other significant evidence raising prudent concerns of unreasonable adverse risk to people or to the environment.

(4) A complete copy of the labeling accompanying the pesticide and a statement of all claims to be made for it,

including the directions for use and the use classification as provided for in the "Federal Insecticide, Fungicide, and Rodenticide Act of 1947," (61 Stat. 163, 7 U.S.C. § 136 et seq.).

(c) The secretary shall require the submission of a list of all active and inert ingredients of all pesticides to be registered and may, when he deems it necessary, require the submission of the complete formula.

(d) The secretary may require a full description of the tests made on any pesticide and the results thereof upon which the claims are based. In the case of renewal of registration, a statement shall be required only with respect to information which is different from that furnished when the pesticide was registered or last reregistered.

(e) The secretary may prescribe other necessary information by regulation.

(f) The applicant desiring to register a pesticide shall pay an annual registration fee of twenty-five dollars (\$25) to the secretary for each pesticide registered for such applicant. All such registrations shall expire on December 31 of any one year, unless sooner cancelled. A registration for a special local need pursuant to subsection (h) which is disapproved by the administrator of the Federal Environmental Protection Agency shall expire on the effective date of the administrator's disapproval.

(g) Any registration approved by the secretary and in effect on December 31 for which a renewal application has been made and the proper fee paid shall continue in full force and effect until such time as the secretary notifies the applicant that the registration has been renewed, or otherwise denied, in accord with the provisions of section 6 of this act. Forms for reregistration shall be mailed to registrants at least thirty days prior to the due date.

(h) Provided the Commonwealth is authorized by the administrator of the Federal Environmental Protection Agency to register pesticides to meet special local needs pursuant to section 24(c) of the "Federal Insecticide, Fungicide, and Rodenticide Act of 1947," the secretary shall require the information set forth under subsections (b), (c), (d) and (e) of this section and shall, subject to the terms and conditions of authorization, register such pesticide if he determines that:

(1) Its composition is such as to warrant the proposed claims for it.

(2) Its labeling and other material required to be submitted comply with the requirements of this act.

(3) It will perform its intended function without unreasonable adverse effects on the environment.

(4) When used in accordance with widespread and commonly recognized practice, it will not generally cause unreasonable adverse effects on the environment.

(5) The proposed classification for general use or for restricted use, or for both, is in conformity with section 3(d) of the "Federal Insecticide, Fungicide, and Rodenticide Act of 1947."

(6) A special local need exists.

(i) The secretary shall not make any lack of essentiality a criterion for denying registration of any pesticide. Where two pesticides meet the requirements of this section, one should not be registered in preference to the other.

(5.1 added Dec. 12, 1986, P.L.1542, No.167)

Section 6. Refusal to Register, Cancellation, Suspension, Legal Recourse.--(a) If it does not appear to the secretary

that a pesticide registered under his authority is such as to warrant the proposed claims for it or if the pesticide and its labeling and other material required to be submitted do not comply with the provisions of this act or regulations adopted thereunder he shall notify the applicant of the manner in which the pesticide, labeling, or other material required to be submitted fails to comply with the provisions of this act so as to afford the applicant an opportunity to make the necessary corrections. If, upon receipt of such notice, the applicant does not make the required changes, the secretary may refuse to register the pesticide.

(b) The secretary may, when he determines that a pesticide registered under his authority, or its labeling does not comply with the provisions of the act or the regulations adopted thereunder, cancel the registration of a pesticide.

(c) The secretary may, when he determines that there is an imminent hazard, suspend on his own motion, the registration of a pesticide registered under his authority.

(d) ((d) repealed Apr. 28, 1978, P.L.202, No.53)

(e) All action of the secretary taken pursuant to the provisions of this section shall be subject to the provisions of the act of June 4, 1945 (P.L.1388, No.442), known as the "Administrative Agency Law."

Section 7. Determinations; Rules and Regulations; Classified for Restricted Use; and Uniformity.--(a) The secretary is authorized, after due notice and an opportunity for a hearing or public comment:

(1) To declare as a pest any form of plant or animal life (except virus, bacteria, or other microorganisms on or in living man or other living animals) which is injurious to man, desirable animals, desirable plants, and land; and

(2) To determine pesticides, and quantities of substances contained in pesticides, which are injurious to the environment. The secretary shall be consistent with the Federal Environmental Protection Agency regulations in this determination.

(b) The secretary is authorized, after due notice and a public hearing or public comment, to adopt appropriate regulations for carrying out the provisions of this act, including but not limited to regulations providing for:

(1) The collection, examination, and reporting of samples of pesticides or devices.

(2) The safe handling, transportation, storage, display, distribution, and disposal of pesticides and their containers consistent with "Federal Insecticide, Fungicide and Rodenticide Act of 1947," as amended in 1972.

(3) Restricting or prohibiting the use of certain types of containers or packages for pesticides not federally registered. These restrictions may apply to type of construction, strength, and/or size to alleviate danger of spillage, breakage, or misuse. The secretary shall be consistent with Federal regulations concerning pesticide containers.

(4) Labeling requirements of all pesticides not federally registered required to be registered under provisions of this act.

(5) Regulating the labeling of devices.

(6) Adopting lists of pesticides classified for restricted use for the Commonwealth or for designated areas within the Commonwealth if the secretary determines that such pesticides may require regulations restricting or prohibiting their distribution or use. Such lists are to be consistent with Federal lists unless there is a local need or imminent hazard. The secretary may include in the regulation the time and



conditions of distribution or use of such pesticides classified for restricted use and may, if he deems it necessary to carry out the purpose and provisions of this act, require that any or all pesticides classified for restricted use shall be purchased, possessed, or used only under the permit of the secretary and under his direct supervision in certain areas and/or under certain conditions or in certain quantities or concentrations.

(c) Such rules and regulations shall be adopted pursuant to the provisions of the act of July 31, 1968 (P.L.769, No.240), known as the "Commonwealth Documents Law."

(d) For the purpose of uniformity of requirements between the states and the Federal Government, and to avoid confusion endangering the environment, the secretary may, after a public hearing or public comment, adopt regulations in conformity with the primary pesticide standards, particularly as to labeling, registration requirements, and pesticides classified for restricted use as established by the Federal Environmental Protection Agency or other Federal or Commonwealth agencies.

(e) Nothing in this act shall be construed as requiring the secretary to report minor violations of this act for prosecution or for the institution of condemnation proceedings when he believes that the public interest will be served best by a suitable notice of warning in writing. However, the secretary shall maintain an appropriate record of all violations identified as a result of use observations, misuse investigations or by inspectors in the normal conduct of their duties.

(7 amended Dec. 12, 1986, P.L.1542, No.167)

Section 8. Prohibited Acts.--(a) No person shall distribute, transport, or deliver for transportation, into, through or within this Commonwealth:

(1) Any pesticide which has not been registered pursuant to the provisions of this act.

(2) Any pesticide if any of the claims made for it or any of the directions for its use or its labeling differs from the representation made in connection with its registration or if the composition of the pesticide differs from the composition as represented in connection with its registration: Provided, That a change in the labeling or formula of a pesticide may be made within a registration period without requiring reregistration of the product in cases where the secretary determines that such change will not have an unreasonable adverse effect on the environment.

(3) Any pesticide unless it is in the registrant's or the manufacturer's unbroken immediate container and there is affixed to such container, and to the outside container or wrapper, if any, a label bearing the information required by this act and the regulations adopted hereunder except as the secretary shall provide in the rules and regulations for certified applicators.

(4) Any pesticide which is adulterated or misbranded.

(5) Any pesticide packaged in a container which violates any provision of the regulations adopted pursuant to section 7(b) of this act.

(6) Any pesticide packaged in a container which is unsafe due to damage.

(7) Any pesticide application device which is misbranded.

(b) No person shall distribute any pesticide classified for restricted use to any person who is required by law to have a permit or to be certified to use or purchase such pesticide unless such person has a valid permit or is certified to use

or purchase the kind and quantity of such pesticide proposed to be distributed.

(c) No person shall detach, alter, deface or destroy, wholly or in part any label or labeling prescribed in this act or in any regulations adopted hereunder.

(d) No person shall add any substance to, or take any substance from, a pesticide in a manner that may be reasonably expected to defeat the purpose of this act or the regulations adopted hereunder.

(e) No person shall use, or cause to be used, any pesticide inconsistent with its labeling or to the regulations of the secretary if such differ from, or further restrict, the labeling of the pesticide.

(f) No person shall use for his own advantage or reveal any information relative to the formulas, supporting data or other confidential information for registration of pesticide products acquired by the authority of section 5.1 of this act, but this provision shall not be deemed to prohibit the disclosure of information to the secretary or proper officials or employes of the Commonwealth, or to courts of competent jurisdiction in response to a subpoena, or to physicians or pharmacists or other qualified persons for purposes of providing health care treatment. ((f) amended Dec. 12, 1986, P.L.1542, No.167)

(g) No person shall handle, transport, store, display or distribute pesticides in such manner as to endanger man or his environment or endanger food, feed or any other products that may be transported, stored, displayed or distributed with such pesticides.

(h) No person shall dispose of, discard or store any pesticide or pesticide containers in such a manner as to cause injury to humans, vegetation, crops, livestock, wildlife or pollinating insects or pollute any water supply or waterway.

(i) No person shall make any false or fraudulent claims through any media, misrepresenting the effect of pesticide materials or application methods to be utilized.

(j) No person shall operate pesticide application equipment or devices in a faulty, careless or negligent manner.

(k) No person shall refuse or neglect to keep and maintain the records required by this act or to make reports when and as required by regulation.

(l) No person shall make false or fraudulent records, invoices or reports concerning the manufacture, transportation, sales, storage, control and application of pesticides.

(m) No person shall engage in the business of applying pesticides on the lands of another without first obtaining a current, valid license pursuant to the provisions of this act. ((m) amended Dec. 12, 1986, P.L.1542, No.167)

(n) No person shall make any false statement or misrepresentation of material fact on any application for the issuance or renewal of any license, permit or certification issued pursuant to this act.

(o) No person shall refuse or neglect to comply with any limitations imposed upon a license, permit or certification issued pursuant to this act.

(p) No person shall aid or abet another to evade the provisions of this act, conspire with another for that purpose or allow his license, permit or certification to be used by another.

(q) No person shall make any false or misleading statement during or after an inspection concerning any infestation or infection of pests found on the land inspected.

(r) No person shall impersonate any Federal, State, county or city inspector or official in connection with any matter regulated by the provisions of this act.

(s) No individual shall purchase or attempt to purchase any pesticide classified for restricted use, unless such individual is a certified or permitted pesticide applicator. ((s) added Dec. 12, 1986, P.L.1542, No.167)

(t) No person shall apply a restricted use pesticide within one hundred feet of publicly owned or designated areas as defined in section 25.1 of this act unless a waiver is granted by the secretary. ((t) added Dec. 12, 1986, P.L.1542, No.167)

Section 9. Denial, Suspension and Revocation of Licenses, Permits and Certificates.--(a) Upon receipt of a complaint from any person or of a report of any agent of the secretary concerning an alleged violation of any provision of this act or of the regulations adopted hereunder or of an order issued pursuant hereto by the holder of a license, permit or certificate, the secretary after a hearing may suspend such license, permit or certificate for a period not to exceed ten days pending an inquiry into the matter.

(b) After hearing, the secretary may deny, modify, suspend or revoke a license, permit or certificate issued or to be issued pursuant to the provisions of this act if he finds that the applicant or holder has violated any provision of this act or of the regulations adopted hereunder or of an order issued pursuant hereto.

Section 10. "Stop Sale, Use, or Removal" Order.--When the secretary has reasonable cause to believe a pesticide or device is being distributed, stored, transported, or used in violation of any of the provisions of this act, or of any of the prescribed regulations under this act, he may issue and serve a written "stop sale, use or removal" order upon the owner or custodian of any such pesticide or device. If the owner or custodian is not available for service of the order upon him, the secretary may attach the order to the pesticide or device and shall notify the owner, custodian, and registrant. The pesticide or device shall not be sold, used, or removed until the provisions of this act have been complied with and the pesticide or device has been released in writing under conditions specified by the secretary or the violation has been otherwise disposed of as provided in this act by a court of competent jurisdiction.

Section 11. Judicial Action After "Stop Sale, Use or Removal" Order.--(a) After service of a "stop sale, use, or removal" order is made upon any person, either that person, the registrant, or the secretary may file an action in a court of competent jurisdiction for an adjudication of the alleged violation. The court in such action may issue temporary or permanent injunctions and such intermediate orders as it deems necessary or advisable. The court may order condemnation of any pesticide or device which does not meet the requirements of this act or regulations adopted thereunder.

(b) If the pesticide or device is condemned, it shall, after entry of decree, be disposed of by destruction or sale as the court directs, and if such pesticide or device is sold, the proceeds, less costs including legal costs, shall be paid to the State Treasury as provided in section 38 of this act: Provided, That the pesticide or device shall not be sold contrary to the provisions of this act or regulations adopted thereunder. Upon payment of costs and execution and delivery of a good and sufficient bond conditioned that the pesticide or device shall not be disposed of unlawfully, the court may

direct that the pesticide or device be delivered to the owner thereof for relabeling, reprocessing, or otherwise bringing the product into compliance or withdrawal of product from the Commonwealth.

(c) When a decree of condemnation is entered against the pesticide or device, court costs, fees, storage, and other proper expenses shall be awarded against the person, if any, appearing as claimant of the pesticide.

(11 repealed in part Apr. 28, 1978, P.L.202, No.53)

Section 12. Pesticide Dealer License.--(a) It shall be unlawful for any person to act in the capacity of a pesticide dealer who sells pesticides which are classified for restricted use or advertise as, or assume to act as a pesticide dealer at any time without first having obtained an annual license from the secretary which shall expire December 31 of each year. A license shall be required for each location or outlet located within this State from which such pesticides are sold: Provided, That any manufacturer, registrant, or distributor who has no pesticide dealer outlet licensed within this State and who distributes such pesticides directly into this State shall obtain a pesticide dealer license for his principal out-of-state location or outlet.

(b) Application for a license shall be accompanied by a ten dollars (\$10) annual license fee and shall be on a form prescribed by the secretary.

(c) Provisions of this section shall not apply to a licensed pesticide applicator who sells pesticides only as an integral part of his pesticide application service when such pesticides are dispensed only through equipment used for such pesticide application; or any Federal, State, county or municipal agency which provides pesticides only for its own programs.

(d) Applications for renewals of pesticide license shall be mailed to registrants at least sixty days prior to due date.

(e) Each pesticide dealer shall be responsible for the acts of each person employed by him in the solicitation and sale of pesticides and all claims and recommendations for use of pesticides. The dealer's license shall be subject to denial, suspension, or revocation after a hearing for any violation of this act whether committed by the dealer, or by the dealer's office, agent or employe.

Section 13. Pest Management Consultant.--No individual shall perform services as a pest management consultant for a fee without first obtaining from the secretary an annual license which shall expire on December 31 of each year. Application for a license shall be on a form prescribed by the secretary and shall be accompanied by a fee of twenty-five dollars (\$25): Provided, That licensed pesticide applicators; employes of Federal, State, county or municipal agencies when acting in their official capacities; shall be exempt from this licensing provision.

Section 14. Examination for Pest Management Consultant's Licenses.--The secretary shall require each applicant for a pest management consultant's license to demonstrate to the secretary the applicant's knowledge of pesticide laws and regulations; pesticide hazards; and the safe distribution, use and application, and disposal of pesticides by satisfactorily passing a written examination for which he has applied prior to issuing his license. An examination fee of five dollars (\$5) shall be charged when an examination is requested at other than a regularly scheduled examination date.

Section 15. Classification of Licenses.--(15 repealed Dec. 12, 1986, P.L.1542, No.167)

Section 15.1. Pesticide Application Licensing.--(a) Each business, public utility, government agency or other entity engaged in applying or contracting for the application of pesticides, as meets the definition of "commercial applicator," shall hold a license stating those categories in which it is to do business. No license shall be issued to any business, public utility or agency, nor shall any license remain valid unless such business, public utility or agency has a certified applicator in its employ at all times. No license shall be required of any private applicator.

(b) The secretary shall categorize the applicator licenses issued hereunder as one of the following:

(1) Commercial pesticide applicator.

(2) Public pesticide applicator.

(c) The secretary shall subcategorize applicator licenses to be issued under this section. Such categories may include, but not be limited to, structural pest control operators, ornamental, agricultural, or right-of-way pesticide applicators, and further designations as to ground, aerial or manual methods used by any licensee to apply pesticides or to use pesticides to control pests.

(d) Application for an applicator license shall be made in writing to the secretary on a designated form provided by the secretary.

(e) The secretary shall require a fee not to exceed twenty-five dollars (\$25) per year for each licensee, but no business shall be required to pay an additional license fee if such business desires to be licensed in one or more of the license categories provided for by the department under the authority of this section.

(f) If the secretary determines and designates the applicant or his employe to be a certified applicator and qualified to apply pesticides in the categories applied for, and, in the case of an applicant for a license as a commercial applicator, if the applicant or his employer files the satisfactory evidence of financial responsibility as required hereunder and if the applicant applying for a license to engage in aerial application of pesticides has met all the requirements of the Federal Aviation Administration and any other applicable Federal or State laws or regulations to operate the equipment described in the application, the department shall issue a license limited to the categories for which said applicant is qualified. Such evidence of financial responsibility shall be presented and shall be maintained throughout the entire life of the license. The secretary may limit the license of the applicant to the use of certain pesticides, or to certain areas, or to certain types of equipment if the applicant is only so qualified. If a license is not issued as applied for, the secretary shall inform the applicant in writing of the reasons therefor.

(g) The secretary shall not grant a license until the applicant for a license has furnished evidence of financial responsibility to the secretary, consisting either of a surety bond, self-insurance or a liability insurance policy or certification thereof, or other evidence of financial responsibility. The secretary shall determine by regulation the financial responsibility requirements after due notice and a hearing.

(h) (1) The secretary may, after notice, including a statement of reason therefor, and opportunity for a hearing, suspend, revoke or modify any license granted under this act where the secretary has reasonable grounds to believe that the licensee is responsible for any prohibited acts pursuant to

this act. The secretary shall furnish the licensee with notice of the time and place of the hearing, which notice shall be served personally or by certified mail, directed to his place of business or last known address, with postage fully paid, at least ten days prior to the time fixed for the hearing.

(2) Should the financial responsibility furnished become unsatisfactory, said licensee shall immediately execute a new bond, insurance or other financial responsibility and shall he fail to do so, the secretary may revoke his license and give him notice of said fact.

(i) All licenses shall continue in full force and effect until December 31 each year, whereupon they shall become invalid unless renewed. Forms for renewal shall be mailed to all holders of current licenses by the secretary at least sixty days prior to expiration.

(j) The provisions of this section relating to licenses and requirements for their issuance shall not apply to research personnel applying pesticides to bona fide experimental plots.

(15.1 added Dec. 12, 1986, P.L.1542, No.167)

Section 16. Commercial Applicator's License.--(16 repealed Dec. 12, 1986, P.L.1542, No.167)

Section 16.1. Standards of Qualifications for Certification of Commercial Applicators.--No individual shall be certified competent to apply or supervise the application of any pesticide for any purpose unless he has demonstrated his competence to apply pesticides in the proper certification category. Each category shall be subject to separate written testing procedures, requirements and examination fees and shall demonstrate minimum standard proficiency on the basis of a written examination conducted at an approved test site under direction of the department or its designated agents. The secretary shall require a fee not to exceed fifty dollars (\$50) for the basic core examination for certified applicators, and an additional fee not to exceed ten dollars (\$10) shall be charged for each additional category in which the applicant desires to be certified. An annual fee of thirty dollars (\$30) shall be charged when the certification does not require an examination. Certifications shall be valid for one calendar year. The secretary shall promulgate rules and regulations pertaining to:

(1) Written examination requirements for obtaining an applicator's certification. Each applicant for certification shall demonstrate knowledge and competence as to:

(i) Identification of pests to be controlled and the damages caused by such pests.

(ii) The appropriate control measures to be used, including pesticides.

(iii) The hazards that may be involved in applying pesticides, so as to protect people and the environment.

(iv) The proper use of pesticide application equipment, including calibration and dosage calculations.

(v) Protective clothing and respiratory equipment required during application and handling of pesticides.

(vi) General precautions to be followed in cleaning and maintaining equipment used.

(vii) Transportation, storage and disposal of pesticides.

(viii) Applicable Federal and State pesticide laws and regulations.

(2) Renewal of applicator's certificates shall be on the basis of attendance at approved courses. Such courses shall include, at a minimum, a review of certification course subject matter, but shall not include a written examination.

(16.1 added Dec. 12, 1986, P.L.1542, No.167)

Section 16.2. Registration of Pesticide Application Technicians.--(1) Noncertified employes of any business engaged in applying pesticides to the lands of another or to any easement granted by the Commonwealth may apply pesticides only under the direct supervision of a certified applicator.

(2) It shall be the duty of all licensees to register with the secretary their noncertified employes as pesticide application technicians when such employes are applying pesticides in situations where a certified applicator is not physically present on the site. In order to register those employes as pesticide application technicians, the licensee shall submit a form provided by the secretary. The postmark date shall designate the beginning of a training period of not less than thirty days which must elapse before registration is granted and the employe issued a pesticide application technician identification card by the department. During this period, and yearly thereafter, the employe shall engage in a training program which contains, as a minimum, the subject matter prescribed in regulations adopted by the secretary. An annual registration fee shall be charged by the department for issuance of the pesticide application technician identification card.

(3) The training program for a pesticide application technician shall be administered by a qualified instructor to be determined by standards prepared by the Pesticide Advisory Board and involve subject matter similar to the commercial applicator's area of competence but of a more specific nature involving the assigned tasks of the technician. The training program shall include, but not be limited to:

(i) Identification of pests relative to job responsibility.

(ii) The proper use of pesticides and use of application equipment, including calibration and maintenance equipment used on the job.

(iii) Protective clothing and respiratory equipment required during the application and handling of pesticides.

(iv) Transportation and disposal of pesticides used in and around the workplace.

(v) Applicable State and Federal regulations as they affect the work assignments.

(4) Where there are noncertified employes engaged in the application of pesticides on a job site, they shall, at a minimum, be either of the following:

(i) A crew composed solely of pesticide application technicians.

(ii) A crew of noncertified or nonregistered employes working under the instruction and control of a certified commercial or public applicator who is physically present on the job site.

(16.2 added Dec. 12, 1986, P.L.1542, No.167)

Section 17. Private Applicators.--(a) No "private applicator" shall use any pesticides classified for restricted use without that private applicator first complying with the certification requirements determined by the secretary as necessary to prevent unreasonable adverse effects on the environment.

(b) Certification standards to determine the individual's competency with respect to the use and handling of the pesticide or class of pesticides the private applicator is to be certified to use shall be relative to hazards as per subsection (a). In determining these standards the secretary shall take into

consideration standards of the Federal Environmental Protection Agency.

To be certified as a private applicator to use pesticides classified for restricted use a private applicator shall be required to have a permit which signifies that he is competent to use such pesticides.

Section 17.1. Public Applicators.--No person employed by any unit of a Federal, State or local agency shall engage in applying pesticides at any time without being certified as provided under sections 16.1 and 16.2 of this act. Such certification fee shall be ten dollars (\$10) and shall be valid for a three-year period.

(17.1 added Dec. 12, 1986, P.L.1542, No.167)

Section 17.2. Private Applicators.--(a) No private applicator shall use any pesticides classified for restricted use without that private applicator first complying with the certification requirements determined by the secretary as necessary to prevent unreasonable adverse effects on people or on the environment. To be certified, the private applicator shall pass a written examination administered at an approved test site by the secretary or his agent.

(b) Certain standards to determine the individual's competency with respect to the use and handling of restricted use pesticides by the private applicator shall take into consideration the standards of the Federal Environmental Protection Agency, but, as a minimum, shall include the following topics:

- (1) Labeling and label comprehension.
- (2) Safety and health.
- (3) Environmental protection.
- (4) Pests.
- (5) Pesticides.
- (6) Integrated pest management.
- (7) Equipment.
- (8) Application techniques and technology.
- (9) Laws and regulations.

(c) Upon successful completion of the written examination, the private applicator shall be issued a permit authorizing the purchase and use of restricted use pesticides. Such permit fee shall be ten dollars (\$10) and shall be valid for a three-year period.

(d) A private applicator shall be recertified as competent with respect to the use and handling of restricted use pesticides upon the successful completion of an update training program as determined by the secretary. Such program shall include, at a minimum, a review of certification topics, but shall not include a written examination.

(17.2 added Dec. 12, 1986, P.L.1542, No.167)

Section 17.3. Protection of Trade Secrets and Other Information.--(a) In submitting data required by this act, the applicant may:

- (1) Clearly mark any portions thereof which in his opinion are trade secrets or commercial or financial information.
- (2) Submit such marked material separately from other material required to be submitted under this act.

(b) Notwithstanding any other provisions of this act, the secretary shall not make public information which in his judgment contains or relates to trade secrets in commercial or financial information which is obtained from a person and is privileged or confidential, except that, when necessary to carry out the provisions of this act, information relating to formulas of products acquired by authorization of this act may be



revealed to any State or Federal agency consulted or as required by law.

(c) If the secretary proposes to release for inspection information which the applicant or registrant believes to be protected from disclosure under subsection (b), he shall notify the applicant or registrant, in writing, by certified mail. The secretary shall not thereafter make available for inspection such data until thirty days after receipt of the notice by the applicant or registrant. During this period, the applicant or registrant may initiate an action in an appropriate court for a declaratory judgment as to whether such information is subject to protection under subsection (b).

(17.3 added Dec. 12, 1986, P.L.1542, No.167)

Section 18. Application of Act to Governmental Entities; Public Operator's License Required; Liability.--(18 repealed Dec. 12, 1986, P.L.1542, No.167)

Section 19. Insurance Required of Commercial Applicator Licensee.--(19 repealed Dec. 12, 1986, P.L.1542, No.167)

Section 20. Reports of Pesticide Accidents, Incidents, or Loss.--The secretary may by regulation require the reporting of significant pesticide accidents or incidents to a designated State agency.

Section 21. Inspection of Equipment.--The secretary may provide for inspection of any equipment used for application of pesticides and may require repairs or other changes before its further use for pesticide application.

Section 22. Reciprocal Agreement.--The secretary may issue a license or certification on a reciprocal basis with other states without examination to a nonresident who is licensed, or certified, in another state substantially in accordance with the provisions of this act: Provided, That financial security as provided for in section 19 of this act is met.

Section 23. Exemptions.--(a) A farmer who qualifies as a certified private applicator under section 17 of this act is exempt from provisions of section 16 of this act relating to licenses and requirements.

(b) A landscape gardener who does not apply pesticides classified for restricted use is exempt from licensing provisions of this act.

(c) A veterinarian who does not apply pesticides classified for restricted use is exempt from licensing provisions of this act.

Section 23.1. Temporary Suspensions.--A license or certificate issued under this act may be temporarily suspended under circumstances as determined by the secretary to be an immediate and clear danger to the public health and safety. The secretary shall issue an order to that effect, without a hearing but upon due notice, to the licensee or certificate holder concerned at his or her last known address, which shall include a written statement of all allegations against the licensee or certificate holder. The secretary shall thereupon commence formal action to suspend, revoke and restrict the license or certificate of the person concerned as otherwise provided for in this act. All actions shall be taken promptly and without delay. Within thirty days following the issuance of an order temporarily suspending a license, the secretary shall conduct, or cause to be conducted, a preliminary hearing to determine that there is a prima facie case supporting the suspension. The licensee or certificate holder whose license or certificate has been temporarily suspended may be present at the preliminary hearing and may be represented by council, cross-examine witnesses, inspect physical evidence, call witnesses, offer

evidence and testimony and make a record of the proceedings. If it is determined that there is not a prima facie case, the suspended license shall be immediately restored. The temporary suspension shall remain in effect until vacated by the secretary, but in no event longer than one hundred eighty days.

(23.1 added Dec. 12, 1986, P.L.1542, No.167)

Section 24. The secretary shall follow the procedures or regulations that are established by the Administrator of the Federal Environmental Protection Agency for the safe disposal or storage of any pesticide for which the registration has been cancelled by the Administrator of the Federal Environmental Protection Agency.

Section 25. Pesticide Advisory Board.--(a) There is hereby created a Pesticide Advisory Board. Members of the Pesticide Advisory Board shall be residents of the Commonwealth of Pennsylvania. The Pesticide Advisory Board shall consist of three licensed pesticide applicators (one shall be licensed to operate ground equipment, one shall be licensed to operate aerial equipment and one shall be licensed for structural pest control), one entomologist in public service, one environmental health specialist from the Pennsylvania Department of Health, one toxicologist in public service, one plant pathologist in public service, one member from the agricultural chemical industry, one member from the food processing industry, two producers of agricultural crops or products on which pesticides are applied or which may be affected by the application of pesticides, one member representing environmental interests (having demonstrated significant expertise and knowledge of pesticide handling and application), one representative of the Pennsylvania Department of Agriculture, one representative of the Pennsylvania Fish Commission, one representative of the Pennsylvania Game Commission, one representative of the Pennsylvania Department of Environmental Resources and one representative of the Pennsylvania Department of Transportation. Such members shall be appointed by the Governor for terms of four years and may be appointed for successive four-year terms at the discretion of the Governor. The Governor may remove any member of the board prior to the expiration of his term of appointment for cause: Provided, That at the inception of this act the Governor shall appoint six members which shall not include two members from any one representative group for a period of two years; six members for a period of three years which shall not include two members from any one representative group; and five members for a period of four years which shall not include two members from any one representative group. All subsequent terms for appointments to such board shall be for a period of four years. ((a) amended Dec. 12, 1986, P.L.1542, No.167)

(b) Upon the death, resignation, or removal for cause of any member of the board, the Governor shall fill such vacancy within thirty days of its creation, for the remainder of its term in the manner herein prescribed for appointment to the board.

(c) The board shall advise the secretary on any or all problems relating to the use and application of pesticides. This may include pest control problems, environmental or health problems related to pesticide use, and review of needed legislation, regulations and agency programs.

(d) The board shall elect one of its members chairman. The members of the board shall meet at such time and at such place as shall be specified by the call of the secretary, chairman, or a majority of the board, no less than four times a year.

**Compiler's Note:** The Department of Environmental Resources, referred to in subsec. (a), was abolished by Act 18 of 1995. Its functions were transferred to the Department of Conservation and Natural Resources and the Department of Environmental Protection.

**Compiler's Note:** The name of the Pennsylvania Fish Commission, referred to in subsec. (a), was changed to the Pennsylvania Fish and Boat Commission by the act of December 12, 1991 (P.L.368, No.39). See 30 Pa.C.S. § 308 (relating to designation of commission).

Section 25.1. Additional Regulatory Authority.--(a) The secretary shall, after due notice and public comment, adopt appropriate regulations providing for:

(1) The control of the aerial application of restricted use pesticides to rights-of-way only after notice in a newspaper of general circulation in the affected area, at least one week prior to the date of application. This regulation shall include, but not be limited to:

(i) Minimum spraying distances.

(ii) Procedural prohibitions and restrictions relating to weather conditions.

(2) The prior notification by commercial applicators to individuals residing in dwellings on land contiguous to a restricted use pesticide application site. The secretary, by regulations, shall determine the appropriate mechanism for and the timing and form of notification.

(3) Regulations to prohibit the application of restricted use pesticides within one hundred feet of certain publicly owned or designated lands unless a waiver is granted. The secretary may grant a waiver if an applicant demonstrates that:

(i) The application of the specified pesticide is necessary and will result in a demonstrated public benefit.

(ii) The application of the pesticide will not cause adverse impact on the use of the area to be protected.

(iii) The application of the pesticide will not result in the destruction or loss of any rare or endangered flora or fauna or significant natural community existing in the protected area.

(b) The protected publicly owned or designated area under this section shall include:

(1) Designated natural areas on State forest lands.

(2) Areas designated on Pennsylvania's Natural Diversity Inventory containing rare or endangered species or significant natural communities.

(25.1 added Dec. 12, 1986, P.L.1542, No.167)

Section 26. Legal Recourse.--(26 repealed Apr. 28, 1978, P.L.202, No.53)

Section 27. Information.--The secretary may, in cooperation with the Pennsylvania State University or any other public educational institutions and industry associations publish information and conduct short courses of instruction in the areas of knowledge required in sections 14, 16(2) and 17 of this act.

Section 28. Unlawful Conduct.--It shall be unlawful to violate any of the provisions of this act or rules and regulations adopted hereunder or any order issued pursuant hereto.

Section 29. Criminal Penalties.--(a) Any person engaging in unlawful conduct as set forth in section 28 of this act, upon conviction thereof in a summary proceeding, may be sentenced to pay a fine of not more than three hundred dollars

(\$300) or to undergo imprisonment for a term which shall be fixed at not more than ninety days, or both.

(b) Any person, other than a private applicator, who, within three years after being convicted of an offense pursuant to subsection (a) of this section, engages in similar unlawful conduct, or who violates any provision of this act after such person was issued a written warning by the secretary pursuant to the provisions of this act, shall be guilty of a misdemeanor of the second degree and, upon conviction thereof, may be sentenced to pay a fine of not more than five thousand dollars (\$5,000) or imprisonment for a term that shall be fixed at not more than two years, or both.

(c) Any person who, being a private applicator, within three years after being convicted of an offense pursuant to subsection (a) of this section, engages in similar unlawful conduct, or who violates any provision of this act after such person was issued a written warning by the secretary pursuant to the provisions of this act, shall be guilty of a misdemeanor of the third degree and, upon conviction thereof, may be sentenced to pay a fine of not more than two thousand five hundred dollars (\$2,500) or imprisonment for a term that shall be fixed at not more than one year, or both.

Section 30. Civil Penalties.--(30 repealed Dec. 12, 1986, P.L.1542, No.167)

Section 30.1. Civil Penalties.--(a) In addition to proceeding under any other remedy available at law or in equity for a violation of a provision of this act or a rule or regulation adopted thereunder, or any order issued pursuant to, the secretary may assess a civil penalty not to exceed ten thousand dollars (\$10,000) upon an individual or business for each offense.

(b) No civil penalty shall be assessed unless the person charged shall have been given notice and opportunity for a hearing on such charge in accordance with law.

(c) In determining the amount of the penalty, the secretary shall consider the gravity of the violation. Whenever the secretary finds a violation which did not cause harm to human health or unreasonable adverse effect on the environment, the secretary may issue a warning in lieu of assessing a penalty.

(d) In cases of inability to collect such civil penalty or failure of any person to pay all or such portion of the penalty as the secretary may determine, the secretary may refer the matter to the Office of the Attorney General which shall recover such amount by action in the appropriate court.

(30.1 added Dec. 12, 1986, P.L.1542, No.167)

Section 31. Civil Remedy.--In addition to any other remedies provided for in this act, the Attorney General, at the request of the secretary, may initiate in the Commonwealth Court or the court of common pleas of the county in which the defendant resides or has his place of business, an action in equity for an injunction to restrain any and all violations of this act or the rules and regulations promulgated hereunder or any order issued pursuant to this act from which no timely appeal has been taken or which has been sustained on appeal. In any such proceeding, the court shall, upon motion of the Commonwealth, issue a preliminary injunction if it finds that the defendant is engaging in unlawful conduct, as defined in section 28 of this act, or is engaging in conduct which is causing immediate or irreparable harm to the public. The Commonwealth shall not be required to furnish bond or other security in connection with such proceedings. In addition to an injunction, the court,

in such equity proceedings, may levy civil penalties as provided in section 30 of this act.

Section 32. Concurrent Remedies.--The penalties or remedies prescribed by this act shall be deemed concurrent and the existence of or exercise of any remedy shall not prevent the secretary from exercising any other remedy hereunder, at law or in equity.

Section 33. Enforcement.--(a) For the purpose of carrying out the provisions of this act the secretary may enter upon any public or private premises at reasonable times, in order to sample and examine pesticides or devices on the distributors premises including any vehicle of transport, for the purpose of determining whether they comply with the requirements of this act.

The secretary may also:

(1) Have access for the purpose of inspecting any equipment subject to this act and such premises on which such equipment is kept or stored.

(2) Inspect lands actually or reported to be exposed to pesticides.

(3) Inspect storage or disposal areas.

(4) Inspect or investigate complaints of injury to humans or land.

(5) Sample pesticides being applied or to be applied.

(b) Should the secretary be denied access to any land or buildings where such access was sought for the purpose set forth in this act, he may apply to any issuing authority for a search warrant authorizing access to such land or buildings for said purposes. The court may upon such application issue the search warrant for the purposes requested.

Section 34. Cooperative Agreements.--The secretary may cooperate, receive grants-in-aid, and enter into agreements with any agency private or public of the Federal Government, of this Commonwealth or with any agency of another state, in order:

(1) To secure uniformity of regulations.

(2) To cooperate in the enforcement of the Federal Pesticide Control Laws through the use of State and Federal personnel and facilities and to implement cooperative enforcement programs.

(3) To develop and administer State programs for training and certification of certified applicators consistent with Federal standards.

(4) To contract for training with other agencies including Federal agencies for the purpose of training certified applicators.

(5) To contract for monitoring pesticides for the national plan.

(6) To prepare and submit State plans to meet Federal certification standards.

(7) To regulate certified applicators.

Section 35. Records.--Any person issued a license or permit under provisions of this act shall be required by the secretary to keep accurate records of such relevant information as the secretary may deem necessary as specified by regulation and shall make such records available to the secretary upon written request.

(35 amended Dec. 12, 1986, P.L.1542, No.167)

Section 36. Publication of Information.--The secretary shall publish and distribute annually to each pesticide registrant or licensee or other interested persons a composite report of the results of analyses based on official samples as compared with the analyses guaranteed and information concerning the

distribution of pesticides: Provided, That individual distribution information shall not be a public record.

Section 37. Delegation of Duties; Exclusion of Local Laws and Regulations.--(a) All authority vested in the secretary by virtue of the provisions of this act may with like force and effect be executed by such employes of the Commonwealth as the secretary may from time to time designate for said purpose.

(b) This act and its provisions are of Statewide concern and occupy the whole field of regulation regarding the registration, sale, transportation, distribution, notification of use, and use of pesticides to the exclusion of all local regulations. Except as otherwise specifically provided in this act, no ordinance or regulation of any political subdivision or home rule municipality may prohibit or in any way attempt to regulate any matter relating to the registration, sale, transportation, handling or use of pesticides, if any of these ordinances, laws or regulations are in conflict with this act.

(37 amended Dec. 12, 1986, P.L.1542, No.167)

Section 37.1. Fees, Fines and Civil Penalties.--All fees imposed by this act shall remain in effect until changed by the secretary by regulation subject to the act of June 25, 1982 (P.L.633, No.181), known as the "Regulatory Review Act." If the revenues raised by fees, fines and civil penalties imposed under this act are not sufficient to meet expenditures for the administration and enforcement of this act over a two-year period, the secretary shall increase those fees by regulation so that the projected revenues will meet or exceed projected expenditures.

(37.1 added Dec. 12, 1986, P.L.1542, No.167)

Section 38. Disposition of Funds.--Fees so collected, as well as moneys derived from registration, licensing and fines, and civil penalties shall be paid into a special restricted account in the General Fund to be known as the Pesticide Regulatory Account for use by the department in administering the act. All such moneys placed in the Pesticide Regulatory Account under the provisions of this section are hereby made available immediately and are hereby specifically appropriated to the department for the purposes herein specified.

(38 amended Dec. 12, 1986, P.L.1542, No.167)

Section 39. Prior Liability.--The enactment of this act shall not have the effect of terminating, or in any way modifying, any liability, civil or criminal, which shall already be in existence on the date this act becomes effective.

**Compiler's Note:** Section 42 of this act provided that the provisions of this act shall become effective six months after the approval of the State plan by the Administrator of the Federal Environmental Protection Agency. The State plan was approved on August 8, 1977 (42 FR 41907). The provisions of this act took effect on February 8, 1978.

Section 40. Repealers.--(a) The act of June 5, 1957 (P.L.248, No.125), known as the "Pennsylvania Pesticide Act of 1957," is repealed, upon implementation of this act.

(b) All other acts and parts of acts are repealed in so far as inconsistent with the provisions of this act.

Section 41. The sum of three hundred fifty-four thousand dollars (\$354,000) is hereby appropriated to the Department of Agriculture for the fiscal year July 1, 1974 to June 30, 1975 to carry out the provisions of this act.

Section 42. Effective Date.--The provisions of this act shall become effective six months after the approval of the State plan by the Administrator of the Federal Environmental

Protection Agency as provided under section 4(b) of the "Federal Insecticide, Fungicide and Rodenticide Act of 1947," as amended in 1972.

**Compiler's Note:** The State plan referred to in this section was approved on August 8, 1977 (42 FR 41907). The provisions of this act took effect on February 8, 1978.