

Pesticide Regulations

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Federal regulation of pesticides is found primarily in three acts—the Federal Insecticide, Fungicide, and Rodenticide Act of 1972 as amended; the Resource Conservation and Recovery Act of 1976; and the Comprehensive Environmental Response, Compensation, and Liability Act of 1980.

Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)

This law defines the conditions for developing, registering, and using pesticides. It has been amended several times, with the 1978 amendment producing significant changes in the requirements for registration, classification, and use of pesticides.

The requirements for registration mainly affect pesticide manufacturing companies and will not be addressed here. The 1978 amendment gave States broader authority and responsibility for registering pesticides. States automatically have authority to register pesticides for use within the State for "special local needs." Formerly, States had registration authority only with approval of the Environmental Protection Agency (EPA). Now, however, EPA may disapprove State registration if the use differs from Federal registration, if it creates an imminent health hazard, or if the State has authorized the use on crops where adequate crop tolerances or residue levels have not been established by EPA.

Two other separate, but closely related, areas in FIFRA have also been amended—classification of pesticides and applicator certification. To make maximum use of the State programs for training and certification of applicators of restricted-use pesticides, EPA is

authorized to classify pesticide uses by regulation as a separate part of the registration process. Designation of restricted-use pesticides supports State applicator certification programs, in which almost all States train and certify applicators of restricted-use pesticides. Restriction of use also provides EPA an alternative way to reduce pesticide risks besides outright cancellation of their registration.

The provisions of FIFRA are legally binding. Violations of the provisions in the act carry both civil and criminal penalties. Private applicators who violate the act are subject to civil or criminal penalties of up to \$1,000. Commercial applicators are liable for civil penalties up to \$5,000 and criminal penalties of up to \$25,000 and 1 year in prison. FIFRA explicitly gives States the primary responsibility for enforcing requirements of the act.

FIFRA also requires that commercial applicators keep records on their employment of restricted-use pesticides. The content and length of time the application records must be kept vary from State to State, but 2 years is generally the maximum that records must be kept. State enforcement agencies have the authority to make unannounced visits during normal business hours to inspect the records of commercial applicators.

The 1978 amendments also clarified an issue of broad concern—the legality of pesticide uses or practices not addressed in the label direction. The following pesticide-use practices have been specifically excluded from the definition of "use inconsistent with the label" and are therefore permissible:

1. Application of the pesticide at less than the labeled dosage, concentration, or frequency.
2. Application of the pesticide to

control an unnamed target pest, as long as the crop, animal, or site is included on the label.

3. Pesticide applied using methods not specifically prohibited by the label wording.

4. Application of pesticide(s) with fertilizers, if not prohibited by the label.

Resource Conservation and Recovery Act (RCRA)

The second Federal regulation governing pesticide use is the Resource Conservation and Recovery Act (RCRA) of 1976. RCRA is designed to extensively monitor hazardous wastes. The act identifies solid wastes that are hazardous and sets forth requirements that govern their handling, storage, and disposal. This law applies to all hazardous wastes unless they are specifically exempted.

The act is administered by the EPA, with assistance from the Materials Transportation Bureau of the U.S. Department of Transportation. The major provisions of the act for controlling hazardous wastes include:

1. A definition of "hazardous waste."
2. A manifest system to monitor hazardous waste from its generation to its disposal. This system is frequently called "cradle to grave tracking."
3. A permit requirement for facilities that treat, store, or dispose of hazardous waste.
4. A requirement that every State must have a hazardous waste program.

Any installation that stores, disposes of, transports, or offers to transport hazardous waste must obtain an EPA identification number from the Regional EPA Administrator. Once the "waste"

designation has been applied to any pesticide on EPA's hazardous waste list or residues of these pesticides resulting from a spill cleanup, they can be stored for only 90 days before disposal. Otherwise, a storage permit must be obtained from the Regional EPA Administrator. People transporting hazardous wastes for offsite disposal must prepare a shipping manifest that contains certain specific information as described in Section 3010 of RCRA.

Specific pesticide waste regulations were developed by EPA in the Code of Federal Regulations (CFR 260-266 and 122-124) and became effective in October 1980. Pesticides listed in subpart D of Part 261 of the act are not classified as hazardous wastes until the decision is made to dispose of them or they are stored pending disposal. Pesticides that have been determined to be excess are still considered pesticides. Pesticide containers that have been triple rinsed are not considered hazardous wastes under these regulations and can be disposed of either at approved landfills or by burial.

Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA)

CERCLA established what is known as the "Superfund" for cleaning toxic wastes. This law was enacted in 1980 and is coded in Title 42 of the United States code, beginning in section 96D.

The Superfund, initially \$1.6 billion, was set up to pay for cleaning up spills of hazardous materials and the disposal areas themselves.

The act specifies who is liable for reimbursing the fund. It also requires that spills be reported.

There are some basic differences between RCRA and CERCLA. RCRA is not self-implementing. Rather than telling companies what they must do, Congress directed EPA to formulate regulations that would control company activities. CERCLA's approach is very different: it establishes liabilities and obligations and does not require promulgation of regulations to be effective.

A second important difference between the two bills relates to the time periods they are designed to control. Whereas CERCLA is designed primarily to determine liability arising out of historic waste management practices, RCRA is designed to affect current hazardous waste management activities. Another difference is that while the principal burden of implementing CERCLA rests with the Federal Government, the requirements of RCRA are primarily a State responsibility, subject to EPA approval.

Nurseries are affected by these laws when they dispose of pesticides that are classified as hazardous (RCRA), or when problems arise (CERCLA). Nursery managers who have questions regarding this subject should get in touch with the hazardous waste management officials in their State.

Pesticides may be used safely and effectively to control nursery pests, but careful attention must be paid to both the Federal and State laws governing their use. Anyone having questions regarding the legal use of pesticides should contact the proper pesticide control official.

State Pesticide Regulations

In addition to the three Federal laws, States also have regulations governing the purchase, use, and disposal of pesticides. Before any pesticide use project is initiated in any State, a responsible official must determine that all applicable State pesticide regulations are being followed.