

PESTICIDE LAWS AND REGULATIONS

by

Robert LaRue

Pesticide Division

Department of Agriculture

Helena, Montana

The Federal Insecticide, Fungicide, and Rodenticide Act of 1947 was amended in October of 1972 by the Federal Environmental Pesticide Control Act. These amendments have made several major changes in the area of pesticide regulation. I will address these amendments of FIFRA as they will affect the nursery industry.

FIFRA now requires that the Environmental Protection Agency (EPA) classify all pesticide products into two classes: (1) general use pesticides and (2) restricted use pesticides. FIFRA also requires that those individuals desiring to purchase and apply restricted use pesticides to be certified. FIFRA also addresses the subject of pesticide misuse, state registrations of intrastate pesticide products, and state certification programs.

EPA is now in the process of re-registering pesticide products into general and restricted use classifications. This procedure will result in what pesticides will have a restricted use label. Of course, depending on which pesticides are restricted will result in the final impact of the certification program on Montana's agriculture. We are estimating that there will be approximately 8,500-12,000 private applicators to be certified in the state of Montana. If any of the uses of 2-4,D products are restricted, we could have 18,000 private applicators to certify.

Applicators in Montana will have to be certified by written examination. This includes both the private and the commercial applicator. Applicator training courses are being designed to help individuals to become certified. These courses will be a function of the Extension Service.

FIFRA will have an affect on the nursery industry. Nurserymen have been included in the final definition of a private applicator. This means that a nurseryman could become certified to purchase and apply restricted use pesticides on properties owned or rented by him for purposes of horticulture production. However, this certification only allows an applicator to use restricted use pesticides on his properties and not those of his neighbor. Only commercial applicators will be allowed to use restricted pesticides on the properties of another.

Nurserymen must now be aware of the new pesticide label requirements. The label states what the pesticide may be used for, both as to the target organism and to the commodity to which the pesticide is being applied. Pesticide labels and registrations have become quite an issue between the pesticide industry and the EPA. At issue is the interpretation of a section of FIFRA that deals with the statement "to use any registered pesticide in a manner inconsistent with its labeling".

According to the law any application of a pesticide inconsistent with its labeling is either a civil or criminal penalty. This requires the applicator to be very familiar with each and every pesticide product that is going to be used in his operation. It should be noted that these penalties apply to private applicators as well as commercial.

Montana is in the initial stages of developing a state plan for certification of applicators. This plan is to be sent to Region VIII of the EPA in Denver from the governor's office. The present time schedule is for this plan to be sent some time in the month of October. This plan will design the certification program for the state and how we will accomplish the task of certification. We will also be developing some regulations for the implementation of this plan. We are hoping to have these regulations ready for public hearing sometime in early 1976.

At this point I would like to bring you up to date as to what has taken place since I met with you last summer. Congress has revised some of the wording in the federal pesticide law and has recommended some changes to be made in the EPA. Congress has challenged EPA as to their interpretation of the law involving the methods available to the states for certification of private applicators. EPA did not want to allow private applicators to be allowed to use the so-called "sign-up" system for determining competency to use restricted use pesticides. Congress amended FIFRA to allow states to use the sign-up system for self certification providing that the states also require mandatory training. This amendment of FIFRA will have no effect on Montana because Montana law requires private (farmers) applicators to be certified by written examination. This, of course, could be amended by the Montana legislature in 1977.

The major action taken by Congress was that the implementation date of FIFRA was changed from October 21, 1976 to October 21, 1977. This gives the states an extra year for program development and extra time to work with state legislatures on program and financing.

The department submitted through the governor's office, its state plan for certification of applicators on December 19, 1975. This plan has been reviewed by the EPA and has been sent to Washington to be printed in the federal register.

The department has developed some regulations that were reviewed in public hearing on the 29 and 30 of January. These regulations will be finalized this spring and will become effective on January 1 of 1977.

Any additional information pertaining to the implementation of the federal law can be obtained from the Pesticide Division of the Department of Agriculture.