

An Act

ENROLLED SENATE
BILL NO. 1884

By: Justice of the Senate

and

Biggs of the House

An Act relating to agriculture; amending 2 O.S. 2011, Sections 3-81, 3-84 and 3-85, which relate to the Oklahoma Combined Pesticide Law, modifying references; modifying scope of certain rules; modifying certain uniformity requirements; deleting certain threshold requirements for samples of pesticide materials; and providing an effective date.

SUBJECT: The Oklahoma Combined Pesticide Law

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 2 O.S. 2011, Section 3-81, is amended to read as follows:

Section 3-81. As used in ~~this subarticle~~ the Combined Pesticide Law:

1. "Aircraft" means any contrivance used or designed for navigation of or flight in the air over land or water and is designed for or adaptable for use in applying pesticides as sprays, dusts, or other forms;
2. "Active ingredient" means an ingredient, which defoliates plants, prevents fruit drop, inhibits sprouting, or destroys, repels, or mitigates insects, fungi, bacteria, rodents, weeds, or other pests;

3. "Adulterated" means and includes any pesticide if the pesticide strength or purity falls below the professed standard of quality as expressed on labeling or under which it is sold, or if any substance has been substituted wholly or in part for the components of the pesticide, or if any valuable constituent of the components of the pesticide has been wholly or in part abstracted;

4. "Antidote" means the most practical immediate treatment in case of poisoning and includes but is not limited to first aid treatment;

5. "Business location" means any place, site, or facility maintained by a commercial or noncommercial applicator where records, including but not limited to, financial statements, payroll, insurance, and personnel documents are maintained, pesticides are stored, or customers are served. A location serving strictly as a telephone answering service shall not be considered a business location;

6. "Certificate" means a written document issued to an individual by the State Board of Agriculture which indicates that the individual has met the certification standards established by ~~this subarticle~~ the Combined Pesticide Law for the category of pesticide application shown on the certificate. A certificate does not allow a person to do work as a commercial, noncommercial, service technician, or private applicator unless employed by a licensed entity or has a valid license issued by the Board;

7. "Certification standards" means the standards that a person shall meet to become a certified applicator;

8. "Certified applicator" means a person who has met the certification standards;

9. "Commercial application" means the advertising of services, recommendation for use, the preparation for application, and or the physical act of applying a pesticide or employment of a device for hire or compensation;

10. "Commercial applicator" means any person engaging in the commercial application of pesticides or commercial employment of

devices. Any farmer while working for a neighbor in agricultural production, not advertising, and not held out to be in the business of applying restricted-use pesticides, shall not be classified by the Board as a commercial applicator;

11. "Contract" means a binding, written agreement between two or more persons spelling out terms and conditions and includes, but is not limited to, warranties or guarantees for pesticide application. For structural pest control applications, the contract shall also include a statement, plat, or diagram showing all locations of visible termites and termite damaged materials which are observed, and how the application was performed;

12. "Defoliant" means any pesticide intended to cause the leaves or foliage to drop from a plant, with or without causing abscission;

13. "Desiccant" means any pesticide intended to artificially accelerate the drying of plant tissues;

14. "Device" means any instrument subject to the United States Environmental Protection Agency regulation intended for trapping, destroying, repelling, or mitigating insects or rodents, or mitigating fungi, bacteria, or weeds, or other pests designated by the Board, but not including equipment used for the application of pesticides when sold separately;

15. "Direct supervision" means that the certified applicator is responsible for assuring that persons working, subject to direct supervision, are qualified to handle pesticides and are instructed in the application of the specific pesticides used in each particular application conducted which is subject to their supervision. Certified applicators shall be accessible to the noncertified applicator at all times during the application of the pesticide by telephone, radio, or any device approved by the Board;

16. "Fungi" means all nonchlorophyll-bearing thallophytes, including, but not limited to, rusts, smuts, mildews, molds, yeasts, and bacteria, except those on humans or animals;

17. "Fungicide" means any pesticide intended for preventing, destroying, repelling, or mitigating any fungi or bacteria;

18. "Ground equipment" means any machine, equipment, or device other than aircraft designed for use, adaptable for use, or used on land or water in applying pesticides as sprays, dusts, aerosols, fogs, or other forms;

19. "Herbicide" means any pesticide intended for preventing, destroying, repelling, desiccating, or mitigating any weed, or for defoliating plants, preventing fruitdrop, and inhibiting sprouting;

20. "Inert ingredient" means an ingredient, which is not an active ingredient;

21. "Ingredient statement" means a statement containing the name and percentage of each active ingredient, and the total percentage of all inert ingredients in the pesticide. If the pesticide contains arsenic in any form, the percentages of total and water-soluble arsenic shall each be calculated as elemental arsenic;

22. "Insect" means any of the numerous small invertebrate six-legged animals generally having the body more or less obviously segmented, many belonging to the class Insecta, including, but not limited to, beetles, bugs, and flies as well as allied classes of arthropods including spiders, mites, ticks, centipedes, and wood lice;

23. "Insecticide" means any pesticide intended for preventing, destroying, repelling, or mitigating any insects which may be present in any environment;

24. "Label" means the written, printed, or graphic matter attached to the pesticide, device, or container including the outside container or wrapper of the retail package of the pesticide or device;

25. "Labeling" means all labels and other written, printed, or graphic material:

- a. upon the pesticide, device, or any of its containers or wrappers,
- b. accompanying the pesticide or device at any time, or

- c. to which reference is made on the label or in literature accompanying the pesticide or device except when accurate, nonmisleading reference is made to current official publications of the United States Environmental Protection Agency, United States Department of Agriculture, United States Department of the Interior, the United States Public Health Service, State Experiment Stations, State Agricultural Colleges, or other federal institutions or official agencies of this state or other states authorized by law to conduct research in the field of pesticides;

26. "License" means a written document issued to a person by the Board which shows that the person has met all established licensing requirements established by ~~this subarticle~~ the Combined Pesticide Law and who is authorized to apply pesticides as a commercial, noncommercial, or private applicator pursuant to the license issued;

27. "Minimum standards" means the measures prescribed by the Board to bring appropriate pesticide services to the public;

28. "Misbranded" means and includes:

- a. any pesticide or device if its labeling bears any statement, design, or graphic representation relative to its ingredients which is false or misleading, or
- b. any pesticide or device:
- (1) if it is an imitation of or is offered for sale under the name of another pesticide or device,
 - (2) if its labeling bears any reference to registration under ~~this subarticle~~ the Combined Pesticide Law,
 - (3) if the labeling accompanying it does not contain instructions for use which are necessary and, if complied with, adequate for the protection of the public,

- (4) if the label does not contain a warning or caution statement which may be necessary and, if complied with, adequate to prevent injury to humans and vertebrate animals,
- (5) if the label does not bear an ingredient statement on that part of the immediate container and on the outside container or wrapper, if there is one, through which the ingredient statement on the immediate container cannot be clearly read, of the retail package which is presented or displayed under customary conditions of purchase,
- (6) if any word, statement, or other information required by or under the authority of ~~this subarticle~~ the Combined Pesticide Law to appear on the labeling is not prominently placed with conspicuousness, as compared with other words, statements, designees, or graphic matter in the labeling, and in terms likely to be read and understood by an individual under customary conditions of purchase and use, or
- (7) if in the case of an insecticide, fungicide, or herbicide, when used as directed or in accordance with commonly recognized practice, it shall be injurious to humans, vertebrate animals, or vegetation, except weeds, to which it is applied, or to the person applying the pesticide;

29. "Noncommercial applicator" means any person, other than a commercial or private applicator, who uses or supervises the use of a restricted-use pesticide. The noncommercial applicator shall be under the supervision of an owner or manager of property and who is certified in the same manner as a commercial applicator. A noncommercial applicator is subject to all requirements except those pertaining to financial responsibility. Noncommercial applicator includes a government employee applying restricted-use pesticides in the discharge of official duties;

30. "Nonrestricted-use pesticide" means any pesticide, other than a pesticide classified as restricted-use pesticide;

31. "Nonrestricted-use pesticide dealer" means any person engaged in the sale, storage, or distribution of any pesticide other than those pesticides classified by the United States Environmental Protection Agency or the Board as restricted-use pesticides;

32. "Permit" means a written document issued by the Board which shows that a person has met all of the permitting requirements established by ~~this subarticle~~ the Combined Pesticide Law and is authorized to sell pesticides as a restricted-use or nonrestricted-use pesticide dealer in accordance with the type of permit issued;

33. "Pest" means any organism harmful to man including, but not limited to, insects, mites, nematodes, weeds, and pathogenic organisms. Pathogenic organisms include viruses, mycoplasma, bacteria, rickettsia, and fungi which the Board declares to be a pest;

34. "Pesticide" means a substance or mixture of substances intended for defoliating or desiccating plants, preventing fruitdrop, inhibiting sprouting, or for preventing, destroying, repelling, or mitigating any insects, rodents, fungi, bacteria, weeds, or other forms of plant or animal life or viruses, which the Board declares to be a pest, except viruses on or in humans or animals;

35. "Private applicator" means any person who uses or supervises the use of any restricted pesticide for purposes of producing any agricultural commodity on property owned or rented by the person, or employer, or on the property of another person if applied without compensation other than trading of personal services between producers of agricultural commodities;

36. "Registrant" means the person registering any pesticide or device pursuant to the provisions of ~~this subarticle~~ the Combined Pesticide Law;

37. "Restricted-use pesticide" means any pesticide classified for restricted use by the United States Environmental Protection

Agency, either by regulation or through the registration process, or by the Board pursuant to the Oklahoma Agricultural Code;

38. "Restricted-use pesticide dealer" means any person engaged in the sale, storage, or distribution of restricted-use pesticides;

39. "Rodenticide" means any pesticide intended for preventing, destroying, repelling, or mitigating rodents or any other animal which the Board declares a pest;

40. "Service technician" means a person employed by a licensed commercial or noncommercial applicator who applies the pesticide or employs a device, but is not a certified applicator. A service technician or certified applicator shall be present at each application performed;

41. "Temporary certified applicator" means a person who has successfully completed the written examinations required for certification but has not successfully completed the practical examination;

42. "Use" means transportation, storage, mixing, application, safe handling, waste and container disposal, and other specific instructions contained on the label and labeling;

43. "Weed" means any plant or plant part which grows where not wanted; and

44. "Wood infestation report" means a document issued with a property transaction which shall, at a minimum, contain statements or certifications as to the presence or absence of termites and any other wood destroying insects, and the presence or absence of damage. The wood infestation report does not include a bid or proposal for treatment.

SECTION 2. AMENDATORY 2 O.S. 2011, Section 3-84, is amended to read as follows:

Section 3-84. A. The Board shall have the authority to declare any form of plant or animal life or virus which is injurious to plants, humans, domestic animals, articles, or substances as a pest. The Board shall have the authority to classify pesticide uses as

being general, restricted, or both, to determine standards of coloring or discoloring for pesticides, and to subject pesticides to the requirements of this ~~subarticle~~ section.

B. The Board shall promulgate appropriate rules for carrying out the provisions of this ~~subarticle, including, but not limited to, rules providing for the collection and examination of any samples necessary to evaluate the quality, quantity, or effectiveness of pesticides or devices~~ section.

C. ~~There shall be~~ The Board shall, to the extent practical, create uniformity between the requirements of Oklahoma, the several states, and the Federal Government relating to the coloring or discoloring of pesticides. The Board may promulgate rules applicable to and in conformity with the primary standards established by this subarticle, as have been or may be those prescribed by the Federal Insecticide, Fungicide and Rodenticide Act, as amended.

SECTION 3. AMENDATORY 2 O.S. 2011, Section 3-85, is amended to read as follows:

Section 3-85. A. 1. The State Board of Agriculture shall administer and enforce the provisions of ~~this subarticle and the~~ Oklahoma Combined Pesticide Law.

2. The State Board of Agriculture shall promulgate rules and standards for the application, use or sale of pesticides, rules for pesticide registration, standards for contracts and recordkeeping, work performance, prescribe standards for the licensing of application of pesticides, issuing pesticide dealer permits, certification, recertification procedures, and storing and disposal of pesticide and pesticide containers.

~~2. The rules and standards shall conform, at a minimum, to existing state law,~~

3. The Board shall, to the extent practical, create uniformity between the requirements of Oklahoma and those prescribed by the Federal Insecticide, Fungicide and Rodenticide Act.

~~3-~~ 4. The Board ~~shall~~ is empowered to cooperate with and negotiate reciprocal agreements with the federal government or any state, or any department or agency of either for the purpose of fulfilling the intent of this ~~subarticle~~ section and securing uniformity of rules.

~~4-~~ 5. The Board may inspect any work, records, or contracts of each applicator, manufacturer, or dealer to determine whether or not the work is performed according to the provisions of this ~~subarticle~~ section or rules promulgated thereunder.

~~5-~~ 6. For the purpose of securing uniformity of rules, no city, town, county, or other political subdivision of this state shall adopt or continue in effect any ordinance, rule, regulation, or statute regarding pesticide sale or use that is more stringent than the rules of the Board, including, but not limited to, registration, notification, posting, advertising and marketing, distribution, applicator training and certification, storage, transportation, disposal, disclosure of confidential information, or product composition.

~~6-~~ 7. The Board may take samples of pesticide materials in order to determine their concentration or residue level. If the Board finds that such samples are not within established standards, the Board's finding shall be considered prima facie evidence that a violation has occurred.

- a. The concentration of an active ingredient for a pesticide concentrate, shall not exceed or be less than the concentration of active ingredient stated on the pesticide label by more or less than the tolerance for active ingredient concentration specified by this paragraph. Concentrations above or below the established tolerance shall be prima facie evidence that a pesticide is adulterated or misbranded:
 - (1) pesticides with a stated concentration of active ingredient less than 0.51% shall not exceed 150% or fail to meet 80% of the stated active ingredient on the pesticide label when analyzed,

- (2) pesticides with a stated concentration of active ingredient not less than 0.51% and not more than 1.0% shall not exceed 140% or fail to meet 85% of the stated active ingredient on the pesticide label when analyzed,
- (3) pesticides with a stated concentration of active ingredient not less than 1.01% and not more than 5.00% shall not exceed 140% or fail to meet 90% of the stated active ingredient on the pesticide label when analyzed,
- (4) pesticides with a stated concentration of active ingredient not less than 5.01% and not more than 10.00% shall not exceed 130% or fail to meet 92% of the stated active ingredient on the pesticide label when analyzed,
- (5) pesticides with a stated concentration of active ingredient not less than 10.01% and not more than 50.00% shall not exceed 125% or fail to meet 94% of the stated active ingredient on the pesticide label when analyzed, and
- (6) pesticides with a stated concentration of active ingredient not less than 50.01% and more than 100.00% shall not exceed 115% or fail to meet 96% of the stated active ingredient on the pesticide label when analyzed.

b. The concentration of an active ingredient for a pesticide concentrate in fertilizer and pesticide mixtures, pressed blocks and nonuniform baits shall not be less than the concentration of active ingredient stated on the pesticide label for the tolerance for active ingredient concentration specified by this paragraph. Concentrations below the established tolerance shall be prima facie evidence that a pesticide is adulterated or misbranded:

- (1) when the stated concentration of active ingredient on the pesticide label is less than

1.26% the minimum amount of active ingredient shall be at least 67.0% of the stated concentration on the pesticide label when analyzed,

(2) when the stated concentration of active ingredient on the pesticide label is not less than 1.26% or more than 5.0% the minimum amount of active ingredient shall be at least 80.0% of the stated concentration on the pesticide label when analyzed, and

(3) when the stated concentration of active ingredient on the pesticide label is more than 5.0% the minimum amount of active ingredient shall be at least 85.0% of the stated concentration on the pesticide label when analyzed.

c. The concentration of an active ingredient for a pesticide concentrate in rotenone, pyrethrin and other natural product formulations shall not be less than the concentration of active ingredient stated on the pesticide label for the tolerance for active ingredient concentration specified by this paragraph. Concentrations below the established tolerance shall be prima facie evidence that a pesticide is adulterated or misbranded:

(1) when the stated concentration of active ingredient on the pesticide label is less than 0.51% the minimum amount of active ingredient shall be at least 70.0% of the state concentration on the pesticide label when analyzed,

(2) when the stated concentration of active ingredient on the pesticide label is not less than 0.51% or more than 1.25% the minimum amount of active ingredient shall be at least 80.0% of the stated concentration on the pesticide label when analyzed, and

- (3) when the stated concentration of active ingredient on the pesticide label is more than 1.25% the minimum amount of active ingredient shall be at least 85.0% of the stated concentration on the pesticide label when analyzed.
- d. The concentration of an active ingredient for a pesticide tank mix, as stated by the applicator and allowed by the pesticide label, shall not exceed or be less than the concentration of active ingredient stated by more or less than the tolerance for active ingredient concentration specified by this paragraph. Concentrations above or below the established tolerance shall be prima facie evidence of a use unsuitable, unsafe or inconsistent with its label or labeling. No pesticide shall be formulated into a tank mix at a concentration in excess of or below that permitted by the pesticide label without written approval from an authorized agent of the Oklahoma Department of Agriculture, Food, and Forestry:
- (1) when the stated concentration or that allowed by the pesticide label is less than 0.51% the minimum amount of active ingredient in the tank mix shall be at least 60.0% and not more than 150.0% of the stated concentration or that allowed by the pesticide label when analyzed,
 - (2) when the stated concentration or that allowed by the pesticide label is not less than 0.51% and not more than 1.0% the minimum amount of active ingredient in the tank mix shall be at least 70.0% and not more than 140.0% of the stated concentration or that allowed by the pesticide label when analyzed,
 - (3) when the stated concentration or that allowed by the pesticide label is not less than 1.01% and not more than 5.0% the minimum amount of active ingredient in the tank mix shall be at least

80.0% and not more than 140.0% of the stated concentration or that allowed by the pesticide label when analyzed,

- (4) when the stated concentration or that allowed by the pesticide label is not less than 5.01% and not more than 10.0% the minimum amount of active ingredient in the tank mix shall be at least 84.0% and not more than 130.0% of the stated concentration or that allowed by the pesticide label when analyzed,
- (5) when the stated concentration or that allowed by the pesticide label is not less than 10.01% and not more than 50.0% the minimum amount of active ingredient in the tank mix shall be at least 88.0% and not more than 125.0% of the stated concentration or that allowed by the pesticide label when analyzed, and
- (6) when the stated concentration or that allowed by the pesticide label is not less than 50.01% and not more than 100.0% the minimum amount of active ingredient in the tank mix shall be at least 92.0% and not more than 115.0% of the stated concentration or that allowed by the pesticide label when analyzed.

e. ~~The threshold level for soil residue of pesticide concentration expressed in parts per million (ppm) for post construction termiticide treatment shall meet or exceed the established concentration specified by this paragraph in soils sampled within one hundred eighty (180) days of treatment for vertical barriers. Soil residue concentration below the threshold level specified by this paragraph shall be prima facie evidence of a use unsuitable, unsafe or inconsistent with its label or labeling.~~

- ~~(1) the termiticide Torpedo shall have a soil residue threshold level of at least sixty three (63) ppm,~~

- ~~(2) the termiticide Tribute shall have a soil residue threshold level of at least one hundred fifty (150) ppm,~~
- ~~(3) the termiticide Prevail FT shall have a soil residue threshold level of at least forty six (46) ppm,~~
- ~~(4) the termiticide Demon TC shall have a soil residue threshold level of at least twenty eight (28) ppm,~~
- ~~(5) the termiticide Dagnet FT shall have a soil residue threshold level of at least eighty five (85) ppm,~~
- ~~(6) the termiticide Dursban TC shall have a soil residue threshold level of at least fifty one (51) ppm, and~~
- ~~(7) the termiticide Premise shall have a soil residue threshold level of at least ten (10) ppm.~~

~~f. The threshold level for soil residue of pesticide concentration expressed in parts per million (ppm) for preconstruction termiticide treatment shall meet or exceed the established concentration specified by this paragraph in soils sampled within thirty (30) days of treatment for vertical barriers. Soil residue concentration below the threshold level specified by this paragraph shall be prima facie evidence of a use unsuitable, unsafe or inconsistent with its label or labeling:~~

- ~~(1) the termiticide Torpedo shall have a soil residue threshold level of at least ninety (90) ppm,~~
- ~~(2) the termiticide Tribute shall have a soil residue threshold level of at least two hundred four (204) ppm,~~

- ~~(3) the termiticide Prevail FT shall have a soil residue threshold level of at least sixty four (64) ppm,~~
- ~~(4) the termiticide Demon TC shall have a soil residue threshold level of at least forty one (41) ppm,~~
- ~~(5) the termiticide Dragnet FT shall have a soil residue threshold level of at least ninety seven (97) ppm,~~
- ~~(6) the termiticide Dursban TC shall have a soil residue threshold level of at least one hundred (100) ppm, and~~
- ~~(7) the termiticide Premise shall have a soil residue threshold level of at least ten (10) ppm.~~

~~g. The threshold level for soil residue of pesticide concentration expressed in parts per million (ppm) for preconstruction termiticide treatment shall meet or exceed the established concentration specified by this paragraph in soils sampled within one hundred eighty (180) days of treatment for vertical barriers. Soil residue concentration below the threshold level specified by this paragraph shall be prima facie evidence of a use unsuitable, unsafe or inconsistent with its label or labeling:~~

- ~~(1) the termiticide Torpedo shall have a soil residue threshold level of at least sixty three (63) ppm,~~
- ~~(2) the termiticide Tribute shall have a soil residue threshold level of at least one hundred fifty (150) ppm,~~
- ~~(3) the termiticide Prevail FT shall have a soil residue threshold level of at least forty six (46) ppm,~~

- ~~(4) the termiticide Demon TC shall have a soil residue threshold level of at least twenty eight (28) ppm,~~
- ~~(5) the termiticide Dragnet FT shall have a soil residue threshold level of at least eighty five (85) ppm,~~
- ~~(6) the termiticide Dursban TC shall have a soil residue threshold level of at least fifty one (51) ppm, and~~
- ~~(7) the termiticide Premise shall have a soil residue threshold level of at least ten (10) ppm.~~

~~h. The threshold level for soil residue of pesticide concentration expressed in parts per million (ppm) for preconstruction termiticide treatment shall meet or exceed the established concentration specified by this paragraph in soils sampled within thirty (30) days of treatment for horizontal barriers. Soil residue concentration below the threshold level specified by this paragraph shall be prima facie evidence of a use unsuitable, unsafe or inconsistent with its label or labeling:~~

- ~~(1) the termiticide Torpedo shall have a soil residue threshold level of at least sixty eight (68) ppm,~~
- ~~(2) the termiticide Tribute shall have a soil residue threshold level of at least one hundred fifty three (153) ppm,~~
- ~~(3) the termiticide Prevail FT shall have a soil residue threshold level of at least forty eight (48) ppm,~~
- ~~(4) the termiticide Demon TC shall have a soil residue threshold level of at least thirty one (31) ppm,~~

- ~~(5) the termiticide Dragnet FT shall have a soil residue threshold level of at least seventy three (73) ppm,~~
- ~~(6) the termiticide Dursban TC shall have a soil residue threshold level of at least seventy five (75) ppm, and~~
- ~~(7) the termiticide Premise shall have a soil residue threshold level of at least five (5) ppm.~~

~~i. The threshold level for soil residue of pesticide concentration expressed in parts per million (ppm) for preconstruction termiticide treatment shall meet or exceed the established concentration specified by this paragraph in soils sampled within one hundred eighty (180) days of treatment for horizontal barriers. Soil residue concentration below the threshold level specified by this paragraph shall be prima facie evidence of a use unsuitable, unsafe or inconsistent with its label or labeling.~~

- ~~(1) the termiticide Torpedo shall have a soil residue threshold level of at least forty seven (47) ppm,~~
- ~~(2) the termiticide Tribute shall have a soil residue threshold level of at least one hundred thirteen (113) ppm,~~
- ~~(3) the termiticide Prevail FT shall have a soil residue threshold level of at least thirty five (35) ppm,~~
- ~~(4) the termiticide Demon TC shall have a soil residue threshold level of at least twenty one (21) ppm,~~
- ~~(5) the termiticide Dragnet FT shall have a soil residue threshold level of at least sixty four (64) ppm,~~

~~(6) the termiticide Dursban TC shall have a soil residue threshold level of at least thirty eight (38) ppm, and~~

~~(7) the termiticide Premise shall have a soil residue threshold level of at least five (5) ppm.~~

~~j.~~ The State Board of Agriculture may promulgate, by rule, ~~interim~~ maximum and minimum concentrations or thresholds for the other concentrate of pesticides in products, or soil residues.

B. Authorized agents of the Board shall have the authority to issue notices of violation, citations, compliance orders, stop sales, or stop work orders to those persons committing violations of the laws or rules relating to pesticides or pesticide application in this state.

C. 1. Examinations of pesticides or devices shall be made under the direction of the Board for the purpose of determining if there has been compliance with the requirements of this ~~subarticle~~ section.

2. If it appears from examination that a pesticide or device fails to comply with the provisions of this ~~subarticle~~ section, and the Board contemplates instituting administrative proceedings against any person, the Board shall cause notice and an opportunity for a hearing given to the person pursuant to the Administrative Procedures Act.

D. 1. Any pesticide or device distributed, sold, or offered for sale within this state or delivered for transportation or transported in intrastate or interstate commerce may be seized by the Oklahoma Department of Agriculture, Food, and Forestry in any county of the state where it may be found and if:

a. in the case of a pesticide, it is adulterated or misbranded, it has not been registered ~~under the provisions of this subarticle~~, it fails to bear on its label the required information ~~required by this subarticle~~, or it is a white powder pesticide and it is not colored as required ~~under this subarticle~~, or

b. in the case of a device, it is misbranded.

2. If the pesticide or device is condemned it shall, after entry of decree or judgment of a district court, be disposed of by destruction or sale as the court may direct. If the article is sold, the proceeds, less court costs, shall be paid to the State Department of Agriculture Revolving Fund.

3. The court shall not order the sale or disposal of a condemned pesticide or device in a manner which would be a violation of this ~~subarticle~~ section or rules promulgated thereto.

4. The person or entity directed to dispose or sell the condemned pesticide or device shall do so in a manner that complies with the order of the district court and this ~~subarticle~~ section and rules promulgated thereto.

5. The court may direct that the pesticide or article be delivered to the owner for relabeling or reprocessing.

6. If there is a person who is successful in intervening as claimant of the pesticide or device, when a decree of judgment of condemnation is entered against the pesticide or device, court costs, fees, storage, and other proper expenses shall be awarded against such claimant.

E. The Board may, by publication in a manner as it may prescribe, give notice of all judgments entered in action, instituted under the its authority ~~of this subarticle~~.

F. All authority vested in the Board ~~by the provisions of this subarticle~~ shall with like force and effect be executed by its officers, employees, and authorized agents.

G. EXCEPTION - The fines provided for violations ~~of this subarticle~~ may not apply to:

1. Any carrier while lawfully engaged in transporting a pesticide within this state, if the carrier permits the Board upon request to copy all records showing the transaction in and movement of the pesticide and devices involved;

2. Public officials of this state and of the Federal Government engaged in the performance of official duties;

3. The manufacturer or shipper of a pesticide or device for experimental use only, by or under the supervision of an agency of this state or of the Federal Government authorized by law to conduct research in the field of pesticides or devices, or by others if the pesticide or the device is not sold or if the container is plainly and conspicuously marked "for experimental use only - not to be sold", together with the manufacturer's name and address, if a written permit has been obtained from the Board. Pesticides or devices may be sold for experimental purposes subject to restrictions set forth in the permit; and

4. Pesticides and devices intended solely for export to a foreign country, and prepared or packed according to the specifications or directions of the purchaser. If not exported, all of the provisions of this ~~subarticle~~ section shall apply.

H. 1. The Department of Environmental Quality shall have environmental jurisdiction over:

- a. commercial manufacturers of fertilizers, grain and feed products, and chemicals, and over manufacturing of food and kindred products, tobacco, paper, lumber, wood, textile mill and other agricultural products,
- b. slaughterhouses, but not including feedlots at these facilities, and
- c. aquaculture and fish hatcheries, including, but not limited to, discharges of pollutants and storm water to waters of the state, surface impoundments and land application of wastes and sludge, and other pollution originating at these facilities; and

2. Facilities which store grain, feed, seed, fertilizer, and agricultural chemicals that are required by federal National Pollutant Discharge Elimination Systems (NPDES) regulations to obtain a permit for storm water discharges shall only be subject to

the jurisdiction of the Department of Environmental Quality with respect to such storm water discharges.

I. This section shall not prevent any political subdivision from complying with any applicable federal law or regulation. A political subdivision which takes any action prohibited by this title in order to comply with federal requirements shall notify the Board of its compliance plan prior to taking any action. The Board may assist the political subdivision in complying with federal requirements necessary to carry out the policy of this section. The Board may permit a political subdivision to impose standards more stringent than required by the Board if necessary for the political subdivision to comply with federal requirements.

SECTION 4. This act shall become effective November 1, 2014.

Passed the Senate the 6th day of May, 2014.


Presiding Officer of the Senate

Passed the House of Representatives the 23rd day of April, 2014.


Presiding Officer of the House
of Representatives

OFFICE OF THE GOVERNOR

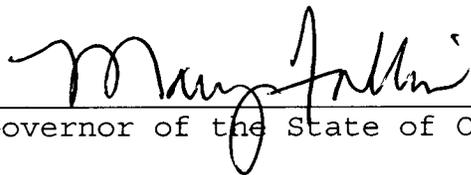
Received by the Office of the Governor this 7th

day of May, 20 14, at 3:19 o'clock P M.

By: Audrey Rockwell

Approved by the Governor of the State of Oklahoma this 12th

day of May, 20 14, at 1:34 o'clock P M.


Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this 12th

day of May, 20 14, at 2:43 o'clock P M.

By: Chi Benson