

2. Ferguson, F. F. 1968. Aquatic weeds and man's well-being. *Hyacinth Cont. J.* 7:7-11.
3. Frye, O. E., Jr. 1972. Weed control as it relates to the aquatic environment. *Hyacinth Cont. J.* 10:12-13.
4. Holm, L. G., L. W. Weldon, and R. D. Blackburn. 1969. Aquatic weeds. *Science* 166:699-709.
5. Jones, E. C. (ed.). 1971. *Florida Statistical Abstract*. Univ. of Florida Press, Gainesville, Florida. p. 3.
6. Raynes, J. J. 1972. Aquatic weed history—century old problem. *Weeds Trees and Turf*, 11 (7):12.
7. Swingle, H. S. 1957. Control of pondweeds by use of herbivorous fishes. *Proc. Southern Weed Conf.* 10:11-17.

Current Pesticide Legislation

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To fully appreciate the current pesticide legislation, the history of the Federal Pesticide Legislation should be reviewed.

INSECTICIDE ACT 1910 (36 STATUTE 331)

This Act was a consumer protection law. It regulated the marketing of insecticides and fungicides by prohibiting the interstate shipment of products that were misbranded or adulterated, as such terms were defined in the statute.

The regulatory scheme consisted of (a) seizure action against a violative product, and (b) criminal action against the shipper of adulterated or misbranded products.

There were certain deficiencies of the Act. One was that the Act limited the classes of economic poisons to insecticides and fungicides; it did not cover such classes as herbicides and rodenticides. The other obvious deficiency was no premarketing clearance requirements.

Federal Insecticide, Fungicide and Rodenticide Act of 1947 (FIFRA) (61 Statute 163)

The important features of this Act were (a) the premarketing clearance requirement, i.e., registration of products, (b) herbicides and rodenticides were included as economic poisons; and (c) devices were defined and regulated.

In 1959 an amendment covering nematocides, plant regulators, defoliant and desiccants was added to the FIFRA.

In 1964 an amendment that eliminated registration under protest was adopted.

The regulatory scheme of FIFRA calls for (a) the registration of products—the registrant must prove efficacy and safety before the product may be marketed; (b) a registered product may be cancelled whenever it is determined that it no longer complies with all the provisions of the Act. A registered product may be suspended if such action is necessary to prevent an imminent hazard to the public; (c) seizure action against a violative product; and (d) criminal action against the shipper of an adulterated or misbranded product or a product shipped prior to registration.

There are several deficiencies that we now believe to be in the FIFRA.

1. There is no direct control over the actual use of a product.
2. Jurisdictional limitation—no regulatory control over products which are not shipped from one state to another state.
3. Insufficient enforcement provisions, i.e., inadequate criminal penalties and no civil penalties.
4. No regulatory control at the source of the pesticides—the manufacturer.
5. Cumbersome administrative procedure in connection with cancellation or suspension proceedings.
6. A lack of agreement on what is considered an "imminent hazard" to the public.
7. No provisions for regulatory action on pesticides or uses that pose hazards to non-target organisms or adverse effects on environment.

THE FEDERAL ENVIRONMENTAL PESTICIDE CONTROL ACT (H.R. 10729) (PUBLIC LAW 92-516)

This Act will give direct control over the use of pesticides. Such control is exercised through a new regulatory scheme, which includes:

- a. Classification of pesticides. All pesticides will be classified as for "General Use" or "Restricted Use."
- b. Pesticides classified under "Restricted Use" may be used only by or under the direct supervision of a "certified pesticide applicator" or under certain circumstances, subject to such other restrictions as the Administrator may determine.
- c. Prohibition against, and penalties for, use of any pesticide inconsistent with its labeling.

The classification is defined by the Act as:

- a. General Use—If the Administrator determines that the pesticide, when applied in accordance with its directions for use, warnings and cautions and for the uses for which it is registered, or for one or more if such uses, will not cause substantial adverse effects on the environment, he will classify the pesticide, or the particular use or uses of the pesticide to which the determination applies for general use. (Section 3 (d) (1) (A))
- b. Restricted Use—If the Administrator determines that the pesticide, when applied in accordance with its directions for use, warnings and cautions and for

the uses for which it is registered, or for one or more of such uses, may cause, without additional regulatory restrictions, substantial adverse effects on the environment, including injury to the applicator, he shall classify the pesticide, or the particular use or uses to which the determination applies, for restricted use. (Section 3 (d) (1) (C))

There are categories within the restricted use classification.

- a. If a pesticide is classified for restricted use because of a determination that its acute toxicity presents a hazard to the applicator or other persons, the pesticide shall be applied only by or under direct supervision of a certified pesticide applicator. (Section 3 (d) (1) (C) (i))
- b. If a pesticide is classified for restricted use because of a determination that its use without additional regulatory restrictions may cause unreasonable adverse effects on the environment, such pesticide may be applied only (a) by or under direct supervision of a certified applicator or (b) subject to such other restrictions as the Administrator may determine. (Section 3 (d) (1) (C) (ii))

The Act describes the certification procedure. It is basically:

- a. The states are given prime responsibility for the certification and supervision of pesticide applicators.
- b. The Administrator of the Environmental Protection Agency (EPA) prescribes standards for certification of applicators.
- c. If any state desires to certify applicators, the state must submit a plan to EPA.
- d. The Administrator shall approve a plan submitted by a state if the plan:
 - (1) designates a state agency having responsibility for administering the plan
 - (2) contains satisfactory assurances that the state agency has legal authority and qualified personnel to carry out the plan
 - (3) gives satisfactory assurances that the state will devote adequate funds to the administration of the plan
 - (4) provides for the submission of reports to the Administrator
 - (5) contains satisfactory assurances that the state standards conform to those prescribed by the Administrator

There are other important provisions of the Bill H.R. 10729 such as:

- a. Any registrant, commercial applicator, wholesaler, dealer, retailer, or other distributor is liable to a \$5,000 civil penalty for an Act violation. Private applicators and other persons are liable only to a \$1,000 civil penalty on their second and subsequent offenses. Opportunity for hearing is required prior to assessment of a civil penalty.
- b. Any registrant, commercial applicator, wholesale, dealer, retailer, or other distributor is liable to a penalty of \$25,000 or 1 year in prison or both upon conviction for a misdemeanor. Private applicators and other persons are liable \$1,000 or 30 days in prison or both. Persons who reveal formula information are liable to \$10,000 or 3 years in prison or both.
- c. Expanded jurisdiction—covers all pesticides and devices both in interstate and intrastate commerce.
- d. Submission of information on effects of pesticide—the registrant is required to submit any information on substantial adverse effects on environment of pesticide after registration.
- e. Provisions for expeditious review of cancellation or suspension actions.
- f. Registration of establishments.
- g. More specific authority for record keeping.
- h. Authority to the Administrator to establish packaging standards.
- i. Specific provisions requiring information and actions to be made public:
 - (1) Federal Register¹ notice of applications for registration of new chemicals or patterns of use.
 - (2) Administrator shall publish guidelines regarding information required to support registration.
- j. Authorizes the Administrator to regulate the disposal of unwanted pesticides and pesticide containers.
- k. Establishes a series of effective dates for various provisions of the Act and continues the existing law (FIFRA) in effect until new provisions become effective. Every provision of Public Law 92-516 must be effective within 4 years.

The Environmental Protection Agency is charged with enforcement of the FIFRA and the Bill HR 10729. Whatever bill we will work under next year will be vigorously enforced. We will continue to urge other than chemical means to control pests but feel the present quality of life in the U.S. requires the use of pesticides but only those that are effective and safe to the user and the environment.

¹Federal Register—Federal Register Act approved July 26, 1935. Legal Authority Title 44 U.S. Code 15.