

The Vermont Statutes Online

Title 6 : Agriculture

Chapter 087 : Control Of Pesticides

(Cite as: 6 V.S.A. § 1103)

§ 1103. Regulation by Secretary

(a) General authority. The Secretary shall have responsibility for regulating and controlling the sale, use, storage, treatment, and disposal of pesticides and pesticide wastes, in order to promote the public health, safety, and welfare and protect agricultural and natural resources. In the performance of such duties the Secretary shall act upon the advice of the Pesticide Advisory Council, and subject to the approval of the Governor.

(b) Management program. By January 1, 1993, the Secretary, in conjunction with the committee described in this section, shall make recommendations to the Vermont legislature regarding a management program for unwanted, obsolete, and waste quantities of pesticides. These recommendations shall be of a nature that, if implemented, will provide for the proper management of these pesticides and address all pesticides sold into the State of Vermont. These recommendations shall include recommendations for funding.

(c) Management program committee. The committee convened by the Secretary to make the recommendations required under this section shall be composed of at least the following members, appointed by the Secretary:

- (1) a representative from the Agency of Natural Resources;
- (2) a representative from a regional planning commission;
- (3) a representative from a farmer group;
- (4) a representative from an environmental group;
- (5) a representative from the manufacturers of pesticides;
- (6) a representative from a retail sales association;
- (7) a representative from the Department of Health;
- (8) a representative of the general public.

(d) Management program recommendations. Recommendations for the program under this section shall include, at least, recommendations related to the following:

- (1) responsibility of manufacturers of pesticides;
- (2) responsibility of retailers and wholesalers;
- (3) responsibility of consumers;
- (4) responsibility of government;
- (5) public education efforts to inform consumers;
- (6) efforts to prioritize collection of pesticides;
- (7) efforts to divert pesticides from the municipal waste stream;
- (8) opportunities to use up pesticides in the possession of consumers;
- (9) funding of all program elements;
- (10) identification of characteristics of pesticides which should be banned from landfill disposal;
- (11) date at which pesticides should be banned from landfill disposal. (Added 1969, No. 273 (Adj. Sess.), § 2, eff. April 9, 1970; amended 1981, No. 53, § 1; 1991, No. 210 (Adj. Sess.), § 2; 2003, No. 42, § 2, eff. May 27, 2003.)

VERMONT **GENERAL ASSEMBLY**

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Title 6 : Agriculture

Chapter 087 : Control Of Pesticides

(Cite as: 6 V.S.A. § 1104)

§ 1104. Powers of Secretary

The Secretary in furtherance of the purposes of this chapter may:

(1) Regulate and license the display, sale, application, use, storage, treatment, and disposal of economic poisons and their waste products and establish restrictions on the use, application, storage, treatment, and disposal of economic poisons and their waste products which are deemed toxic or hazardous to humans, animals, or the natural environment.

(2) Examine, test, and approve any apparatus or equipment used in dispensing, applying, storing, treating, or disposing of economic poisons or their waste products. Such equipment shall be in good working order and free of defective parts, and equipment used for applying economic poisons shall be capable of dispensing prescribed amounts of pesticides to the target without undue hazard to the operator or nontarget areas.

(3) Adopt standards, procedures, and requirements relating to the display, sale, use, application, treatment, storage, or disposal of economic poisons or their waste products and limit the conditions under which the same may be sold, used, treated, stored, or disposed of. The use of pesticides which the Secretary finds to have a hazardous or long-term deleterious effect on the environment shall be restricted, and permits shall be required for their use in accordance with rules adopted by the Secretary. Specific uses of certain pesticides deemed to present a likely risk to human health or be dangerous shall be restricted by rule or by ordering the deletion of certain uses for registered pesticides from the label on pesticide products to be marketed in the State. Approved methods for the safe display, storage, and shipping of poisonous pesticides shall be prescribed and enforced. Procedures for the disposal of pesticides which are illegal, obsolete, surplus, or in damaged containers shall be adopted and enforced with the cooperation of the Agency of Natural Resources.

(4) Enter any premises, public or private, as may be necessary to carry out the provisions of this chapter.

(5) Issue licenses, permits, and certificates pursuant to this chapter.

(6) Require pesticide dealers and applicators to keep records of the sale and use of pesticides deemed particularly toxic or hazardous by the Pesticide Advisory Council and to have such records available for examination by the Secretary or his or her agents at his or her request; the accounting for kinds and amounts of such economic poisons, to whom sold, and where and when used, and the reporting of incidents resulting from accidental contamination or misapplication of pesticides which present a hazard to humans, animals, or the environment, may be required.

(7) [Repealed.]

(8) Revoke or suspend any license or certificate for failure to comply with this chapter or any rule adopted under its authority, or for being subject to a final order imposing a civil penalty under 7 U.S.C. § 136 I or for being convicted under 7 U.S.C. § 136 I on due notice to the licensee or holder of the certificate with an opportunity for hearing if a written request for hearing is filed with the Secretary within five days of receipt of notice of a violation.

(9) Make, adopt, revise, and amend reasonable rules as he or she deems necessary with the advice of the Pesticide Advisory Council in order to carry out the provisions of this chapter.

(10) Appoint assistants, subject to applicable laws and rules, to perform or assist in the

performance of any duties or functions of the Secretary under this chapter.

(11) Enter into reciprocal agreements with appropriate pesticide control agencies of other states or the federal government for the acceptance of licensing and certification of pesticide applicators and operators, provided their standards and administration are substantially equal to the standards established by the Secretary under the provisions of this chapter and the rules adopted under this chapter.

(12) Cooperate fully with the federal government or other agency in the operation of any joint federal-state programs concerning the rule of the application or use of pesticides, such programs, including the program promulgated by Public Law 92-516 of the 92nd Congress.

(13) Institute appropriate proceedings on behalf of the Agency to enforce this chapter and any rules adopted pursuant to this chapter. Whenever the Secretary believes that any person is in violation of the provisions of this chapter or rules adopted pursuant to this chapter, an action may be brought in the name of the Agency in a court of competent jurisdiction against the person to restrain by temporary or permanent injunction the continuation or repetition of the violation. The court may issue temporary or permanent injunctions without bond, and other relief as may be necessary and appropriate for abatement of any violation.

(14) In any case in which the Secretary has authority to institute an action or proceeding under this chapter, in lieu thereof he or she may accept an assurance of discontinuance of any violation of any of the statutes and rules specified in this chapter, including schedules of abatement for a violation. Any assurance of discontinuance shall be prepared in writing with the assistance of the Attorney General. The assurance shall be signed by all parties, and at the discretion of the Secretary, the Attorney General shall submit the assurance of discontinuance to the Superior Court having jurisdiction over the subject matter and shall request that the presiding judge sign the document and issue it as an order of the court. Evidence of a violation of such assurance shall be prima facie proof of violation of a statute or rule specified in this chapter as cited in the assurance. Prior to institution of any action or proceeding under this subdivision, the Secretary whenever he or she believes any person to be or to have been in violation of any statute or rule specified in this subdivision may issue a notice of violation setting forth the nature of the violation, the corrective action necessary to abate the violation, and the notice of intention to institute an action or proceeding against the person responsible for the violation. In that event, the Secretary shall provide the person within 30 days of the notice an opportunity to be heard and an opportunity to settle the matter by an assurance to discontinue prior to instituting an action or proceeding as provided for in this subdivision.

(15) Require correction of sources of pesticide contamination that threaten human health or the environment.

(16) Conduct a collection program for obsolete and unwanted pesticides.

(17) Make information reported to the Agency relative to the use of pesticides available to the public via the Internet or in any other way deemed appropriate, and may allow the required reporting of pesticide use data to be submitted electronically. (Added 1969, No. 273 (Adj. Sess.), § 2, eff. April 9, 1970; amended 1975, No. 39, § 3; 1975, No. 220 (Adj. Sess.), § 10; 1981, No. 53, §§ 2, 4; 1987, No. 76, § 18; 1989, No. 257 (Adj. Sess.), § 8; 1991, No. 79, § 5; 1995, No. 125 (Adj. Sess.), § 3; 1999, No. 49, § 116(2); 1999, No. 141 (Adj. Sess.), § 3; 2003, No. 42, § 2, eff. May 27, 2003; 2015, No. 99 (Adj. Sess.), § 4; 2017, No. 74, § 8; 2017, No. 113 (Adj. Sess.), § 24.)

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Title 6 : Agriculture

Chapter 087 : Control Of Pesticides

(Cite as: 6 V.S.A. § 1105a)

§ 1105a. Treated articles; powers of Secretary; best management practices

(a) The Secretary of Agriculture, Food and Markets, upon the recommendation of the Pesticide Advisory Council, may adopt by rule:

(1) best management practices, standards, procedures, and requirements relating to the sale, use, storage, or disposal of treated articles the use of which the Pesticide Advisory Council has determined will have a hazardous or long-term deleterious effect on the environment, presents a likely risk to human health, or is dangerous;

(2) requirements for the response to or corrective actions for exigent circumstances or contamination from a treated article that presents a threat to human health or the environment;

(3) requirements for the examination or inspection of treated articles the use of which the Pesticide Advisory Council has determined will have a hazardous or long-term deleterious effect on the environment, presents a likely risk to human health, or is dangerous;

(4) requirements for persons selling treated articles to keep or make available to the Secretary records of sale of treated articles the use of which the Pesticide Advisory Council has determined will have a hazardous or long-term deleterious effect on the environment, presents a likely risk to human health, or is dangerous; or

(5) requirements for reporting of incidents resulting from accidental contamination from or misuse of treated articles the use of which the Pesticide Advisory Council has determined will have a hazardous or long-term deleterious effect on the environment, presents a likely risk to human health, or is dangerous.

(b) At least 30 days prior to prefiling a rule authorized under subsection (a) of this section with the Interagency Committee on Administrative Rules under 3 V.S.A. § 837, the Secretary shall submit a copy of the draft rule to the Senate Committee on Agriculture and the House Committee on Agriculture and Forestry for review. (Added 2015, No. 99 (Adj. Sess.), § 3; amended 2017, No. 74, § 9.)