
PESTICIDE REGULATION HANDBOOK

THIRD EDITION

McKENNA & CUNEO

TECHNOLOGY SCIENCES
GROUP INC.

Pesticide Regulation Handbook

Third Edition

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McKenna & Cuneo is an international law firm with over 230 attorneys in Washington, D.C., Los Angeles, San Francisco, San Diego, Denver and Brussels, Belgium. For more than three decades, the firm has advised and represented pesticide producers, users and their trade associations on many of the most important pesticide regulatory issues. **McKenna & Cuneo** also is active in the fields of environmental regulation and litigation, toxic torts and product liability, government contracts, international trade and business, food and drug law, and other areas.

TECHNOLOGY SCIENCES GROUP INC.

Technology Sciences Group, a subsidiary of McKenna & Cuneo, specializes in registering new pesticides with EPA and state authorities, and in assisting in the resolution of pesticide regulatory problems. The company also offers unique expertise in registration of biological products. In the chemical regulatory area, **Technology Sciences Group** offers consulting services in all facets of TSCA compliance. Technology Sciences Group is comprised of Pesticide, Chemicals, Toxicology, Legislative Affairs, and State Affairs Divisions.

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PREFACE TO THE THIRD EDITION

Since 1987 when we first revised our original *Pesticide Regulation Handbook*, the pesticide manufacturing and user communities have experienced numerous significant developments, including most notably the 1988 amendments to FIFRA. These amendments added a new § 4 to FIFRA, launching EPA's ambitious program to complete the reregistration of all pesticides within nine years. In addition, since 1987 EPA has demonstrated an increasing commitment to aggressive enforcement of FIFRA through civil and even criminal initiatives. The role of pesticides in food safety is the continuing object of scientific, regulatory and legal debate. But during this time, states (most frequently California) and even local communities have not been content to assume a back seat in the field of pesticide regulation. Also, with distressing frequency, pesticides are the subject of toxic tort suits. The only constant feature is change. In this Third Edition, we have attempted to highlight these changes, while attempting to meet our original goal — to provide a comprehensive yet readable reference for understanding pesticide regulation.

As always, we invite inquiries and comments about this edition or pesticide regulation in general.

THE AUTHORS

January 1991

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Chapter 1

EVOLUTION OF PESTICIDE REGULATION

Pesticides are chemical or biological substances intended to control weeds, insects, fungi, rodents, bacteria, and other pests. They protect food crops and livestock, control household pests, promote agricultural productivity, and protect public health. Because they can affect living organisms, pesticides are highly regulated to ensure that their use will be safe to man and the environment.

Pesticides are regulated by the U.S. Environmental Protection Agency (EPA) primarily under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. §§ 136-136y (1988), as amended by the Food, Agriculture, Conservation, and Trade Act of 1990, Pub. L. No. 101-624, 104 Stat. 3359 (Nov. 28, 1990), and the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. §§ 301-393 (1988). FIFRA requires pesticides to be registered by EPA and authorizes the Agency to prescribe conditions for their use. The FFDCA requires the Agency to establish maximum acceptable levels of pesticide residues in foods. Both laws require EPA to weigh the benefits derived from the use of a pesticide against any risks that it may pose to public health and the environment, when establishing the conditions for a pesticide's use.

EPA has registered about 600 pesticide active ingredients, which are used to produce approximately 24,000 pesticide products. More than a billion pounds of pesticides are used each year, with about four-fifths of the production going to agriculture.

PESTICIDE REGULATION BEFORE 1972

In the early twentieth century, agricultural chemicals consisted mainly of insecticides and fungicides. These products contained inorganic compounds as their active ingredients, principally arsenicals such as lead arsenate and Paris green (copper aceto-arsenite), and also copper, mercury, and zinc, to name a few.

Federal regulation of pesticides started with the Insecticide Act of 1910, which made it unlawful to manufacture any insecticide or fungicide that was "adulterated or misbranded."