

Regulations on Pesticide Administration

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How to ensure food safety is one of the most severe challenges for China's agriculture today. Numerous studies have shown that many agricultural products' quality and safety problems are related to pesticide overuse. However, the Regulations on Pesticide Administration had already promulgated in 1997 and amended in 2001. Following is an excerpt from the said Regulations.

Chapter I General provisions

Article 1 These Regulations are formulated for the purposes of strengthening the supervision and administration of the production, marketing and use of pesticides, ensuring the quality of pesticide, protecting agricultural and forestry production and the ecological environment and safeguarding human and domestic animal health.

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Article 3 The production, marketing and use of pesticides within the territory of the People's Republic of China shall comply with these Regulations.

Article 4 The State encourages and supports the development, production and use of safe, highly effective and economical pesticides.

Chapter II Registration of pesticides

Article 6 The State practices a pesticide registration system.

The production (including production of technical grade products, formulation and repackaging, and these references remain same hereinafter) and import of pesticides must be registered.

Article 7 The registration of the pesticides domestically produced and imported for the first time shall be conducted in light of the following three stages:

(1) field test stage: When applying for registration of a pesticide, the developer of the pesticide shall submit an application for field test and the field test may only be carried out after the application is approved. Pesticides at field test stage shall not be sold.

(2) temporary registration stage: After the field test, for the pesticides that need to go through field test demonstration, or need to be placed on trial sale and those that need to be used under special circumstances, the manufacturer shall apply for temporary registration. The field test demonstration and trial sale may only be carried out within the specified area after a Temporary Pesticide Registration Certificate is issued by the competent administrative department of agriculture of the State Council.

(3) formal registration stage: The manufacturer of pesticides that has been approved through field test demonstration and trial sale to be ready for commercial distribution shall apply for formal registration, and the production and distribution thereof may only be started after a Pesticide Registration Certificate is issued by the competent administrative department of agriculture of the State Council.

The pesticide Registration Certificate and Temporary Registration Certificate shall specify the term of validity of the registration. If it is necessary to continue producing or selling to China the pesticide products upon expiration of the term of validity of the registration, an application for renewal of registration shall be made before the expiration date.

For the pesticides that have been formally or temporarily registered, if the formulation, content or the scope and methods for use need to be changed within the term of validity of registration, an application for modification in the registration shall be made.

Article 8 When applying for pesticide registration in accordance with the provisions of Article 7 of these Regulations, the developers, manufacturers or foreign enterprises selling pesticides to China shall submit pesticide samples to the competent administrative department of agriculture of the State Council directly or through the competent administrative departments of agriculture of the people's governments of provinces, autonomous regions and municipalities directly under the Central Government, and shall, in accordance with the requirements for pesticide registration stipulated by the competent administrative department of agriculture of the State Council, present data on the chemical and toxicological properties, efficacy, residue, effects on the environment and labels of the pesticides.

The pesticide test agency subordinated to the competent administrative department of agriculture of the State Council is responsible for the concrete work of pesticide's registration throughout the country. Pesticide test agencies subordinated to the competent administrative departments of agriculture of the people's governments of provinces, autonomous regions and municipalities directly under the Central Government shall give assistance in the concrete work of pesticide registration within their respective administrative areas.

Article 9 Pesticide administration specialists and pesticide technical specialists, recommended by the departments of agriculture, forestry, licensing administration of industrial products, public health, environmental protection, grains and other departments of

the State Council and the All-China Federation of Supply and Marketing Cooperatives, constitute the review and adjudication board of pesticide registration.

The data for formal pesticide registration shall, after being examined and signed with written comments respectively by the administrative departments of agriculture, licensing administration of industrial products, public health and environmental protection of the State Council and the All-China Federation of Supply and Marketing Cooperatives, be appraised by the review and adjudication board of pesticide registration regarding the chemical and toxicological properties, efficacy, residue and effects on the environment of the pesticides. Based on the appraisal of the review and adjudication board, those pesticides that are up to the qualifications shall be issued a Pesticide Registration Certificate by the competent administrative department of agriculture of the State Council.

Article 10 The State offers protection to undisclosed test or other data acquired and submitted by the applicant of pesticide that has been granted initial registration and contains new chemical entities.

For a period of six years from the date of registration, if any second applicant applies for registration of pesticide by relying on the data provided in the preceding paragraph without the permission of the applicant who has been granted registration, the registration department shall grant no registration, unless the second applicant has submitted his own data.

Except for the following circumstances, the registration department shall not disclose the data provided in the first paragraph:

- (1) the disclosure of such data is necessary to protect the public;
- (2) steps have been taken to ensure that the data are protected against unfair commercial use.

Article 11 Where a manufacturer intends to manufacture the same pesticide products already registered by other factories, the manufacturer shall make an application for pesticide registration, and present pesticide samples and data as required in Article 8 of these Regulations. A Pesticide Registration Certificate shall be issued by the competent administrative department of agriculture of the State

Chapter III Production of pesticides

Article 12 Pesticide production shall follow the State industrial policies for the pesticide industry.

Article 13 The establishment of pesticide producing enterprises (including jointly operated enterprises, branch factories and pesticide workshops within non-pesticide producing enterprises) shall meet the following requirements, and shall, after the examination and approval by the departments for licensing administration of industrial products of provinces, autonomous regions and municipalities directly under the Central Government, be reported for approval to the administrative department of chemical industry of the State Council. However, if there are different provisions in laws and administrative regulations regarding

the qualifying requirements for establishing enterprises as well as examining or approving organs, those provisions shall prevail.

(1) staffing with technicians and skilled workers qualified to produce the pesticides it intends to produce;

(2) possessing necessary buildings, production facilities and sanitary conditions suitable for producing pesticides it intends to produce;

(3) possessing facilities that meet the State standards for labor safety and sanitation as well as relevant rules for labor safety and sanitation management;

(4) having product quality standards and product quality guarantee system;

(5) the pesticides produced are those that have been granted pesticide registration according to law;

(6) having pollution prevention and control facilities and measures that meet the State requirements for environmental protection, and discharging pollutants within the standards for discharge of pollutants stipulated by the State and localities.

Only after being approved may the pesticide producing enterprises apply to the organ for industry and commerce administration for business licenses.

Article 14 The State practices a licensing system for pesticide production.

When producing pesticides for which national standards or trade standards are available, an application for a Pesticide Production License shall be submitted to the department for licensing administration of industrial products of the State Council.

The production of pesticides for which national or trade standards are not yet available but enterprise standards are available shall, upon the examination and approval by the departments for licensing administration of industrial products of provinces, autonomous regions and municipalities directly under the Central Government, be reported to the administrative department of chemical industry of the State Council for approval, and be issued with the approval document for pesticide production.

Article 15 Pesticide producing enterprises shall carry out the production in accordance with the product quality standards and technological processes for pesticide production, and the production records must be complete and accurate.

Article 16 Packages of pesticide products must be labeled or bear directions for use. The labels shall be firmly stuck or printed on the packages. Labels or directions for use shall indicate the name of the pesticide, name of producer, batch number and the number of Pesticide Registration Certificate or of Temporary Registration Certificate, the number of the Pesticide Production License or of the approval document for pesticide production as well as active ingredients, content, weight, product properties, toxicity, indications, technique and method of use, production date, expiration date and precautions, etc.; for repackaged pesticides, shall also be indicated the repackaging units.

Article 17 Before leaving the factory, pesticide products shall go through quality inspection and bear a qualification certificate of product quality. Products that are not up to the product quality standards shall not be allowed to leave the factory.

Chapter IV Distribution of pesticides

Article 18 The following units may market pesticides:

- (1) marketing units of agricultural production means of the supply and marketing cooperatives;
- (2) plant protection stations;
- (3) soil and fertilizer stations;
- (4) extension setups of agricultural and forestry technologies;
- (5) setups of preventing and controlling forest disease and insect pests;
- (6) pesticide producing enterprises;
- (7) other marketing units prescribed by the State Council.

If the pesticides to be marketed are classified as dangerous chemicals, a license for market shall be acquired in accordance with relevant provisions of the State.

Article 19 Pesticide marketing units shall meet the following requirements and the requirements provided by relevant laws and administrative regulations, and only after having obtained business licenses from the organ for industry and commerce administration may they market pesticides:

- (1) staffing with technicians qualified to the pesticides they market;
- (2) having business premises, equipment, storage facilities, safety protection measures and facilities and measures suitable for the pesticides they market for preventing and controlling environmental pollution;
- (3) having rules and regulations suitable for the pesticides they market;
- (4) having quality management system and means suitable for the pesticides they market.

Article 20 When purchasing pesticides, the marketing units shall check the products against the labels or directions for use and the qualification certificates of product quality, and shall inspect their quality.

It is prohibited to purchase and market the pesticides without the Pesticide Registration Certificate or Temporary Registration Certificate, License for Pesticide Production or approval documents of pesticide production, product quality standard or qualification certificate of product quality and those that have failed to pass inspection.

Article 21 Marketing units shall do a good job in the work of storage of pesticides in accordance with relevant provisions of the State.

A warehousing and deposit system in storing pesticides shall be established and implemented to ensure the quality and safety of pesticide products.

Article 22 The marketing units shall make sure that the marketed pesticides are of good quality and that pesticides are checked against the labels or directions for use and the qualification certificates of product quality.

The marketing units shall give correct instructions to units and individuals using pesticides about the use, method of use, dosage, first-aid measures in case of poisoning and matters needing attention.

Article 23 Pesticides that have exceed the guaranteed term of product quality may, upon the inspection by the pesticide test agency subordinated to the administrative departments of agriculture of the people's governments at or above the province level and if found to be up to the standards, be marketed within a prescribed time period; however, the word "Expired Pesticides" must be clearly indicated, and the instructions on method of use and dosage be born.

Chapter V Use of pesticides

Article 24 The competent administrative departments of agriculture of the people's governments at or above county level shall, in accordance with the plant protection principle of "prevention first, comprehensive prevention and control", organize extension of safe and highly effective pesticides, carry out training activities to improve farmers' application techniques of pesticides and do a good job in disease and pest prediction and forecast.

Article 25 The competent administrative departments of agriculture of the people's governments at or above the county level shall enhance guidance in safe and rational use of pesticides, work out programmes for alternating pesticides in light of local incidence of agricultural diseases, pests, weeds and rodents, use pesticides alternatingly in a planned way in order to reduce the resistance of diseases, pests, weeds and rodents to pesticide and improve the effectiveness of pest control measures.

Article 26 The use of pesticide shall follow the rules for preventing pesticide poison, the mixture and application of pesticides shall be conducted correctly and a good job shall be done in disposing of wastes and in safety and protection work so as to avoid environmental pollution and poisoning accidents.

Article 27 The use of pesticide shall conform to the relevant State provisions on safe and rational use of pesticides, and the application of pesticides shall follow the specified dosage, frequency of application, methods of application and withholding period to avoid polluting agricultural and sideline products.

Extremely and highly toxic pesticides shall not be used for the prevention and control of insects harmful to public health nor for vegetables, melons, fruits, tea and Chinese medicinal herbs.

Article 28 Care must be taken in applying pesticides in order to protect the environment, beneficial organisms and rare species.

It is strictly prohibited to use pesticides to poison fish, shrimps, birds and animals.

Article 29 The administrative departments of forestry, grains and public health shall strengthen their guidance in safe and rational use of pesticides for forestry, grain storage and sanitation.

Chapter VI Other provisions

Article 30 No unit or individual may produce pesticides without the Pesticide Production Licenses or approval documents for pesticide production.

No unit or individual may produce, market, import or use pesticides without the Pesticide Registration Certificates or Temporary Registration Certificates.

The importation of pesticides shall be conducted according to the relevant provisions of the State. The consignees or their agents shall present to the customs the Pesticide Registration Certificates or Temporary Registration Certificates they have obtained in China.

Article 31 It is prohibited to produce, market and use fake pesticides.

Pesticide listed below is fake pesticide:

- (1) a non-pesticide substance passed off as a pesticide or one pesticide passed off as another;
- (2) a pesticide whose category and name of effective ingredients does not tally with that described on the label or in the directions for use.

Article 32 It is prohibited to produce, market and use pesticides of inferior quality.

Pesticide listed below is pesticide of inferior quality:

- (1) failing to meet the quality standards of pesticide product;
- (2) losing utilization efficiency;
- (3) mixing with harmful ingredients that may cause hazards.

Article 33 It is prohibited to market pesticides without labels on packages or with illegible or damaged labels.

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Article 39 The disposal of fake pesticides, pesticides of inferior quality, expired and scrapped pesticides, prohibited pesticides, waste packages and other wastes containing pesticides shall strictly comply with the relevant provisions of laws and regulations on environmental protection to avoid polluting the environment.

Chapter VII Penalty provisions

Article 40 Those who commit one of the following acts shall, in compliance with the provisions in the Criminal Law on the crime of illegal business operation or the crime of causing accident in the control of dangerous articles, be investigated for criminal liabilities according to law; if such acts are not serious enough for criminal punishment, the competent administrative departments of agriculture shall give penalties according to the following provisions:

(1) Those who, not obtaining a Pesticide Registration Certificate or Temporary Pesticide Registration Certificate, produce or market pesticides without authorization, or who produce or market pesticides whose registration have been canceled shall be ordered to stop the production and marketing, and have the illegal income confiscated and a fine of not less than one time but not more than ten times the amount of the illegal income imposed; where there is no illegal income, a fine of not more than 100,000 yuan shall be imposed;

(2) Those who, failing to conduct the renewal of registration after the expiration of valid term of a Registration Certificate or Temporary Pesticide Registration Certificate, continue producing the said pesticide without authorization shall be ordered to go through again the renewal formalities within a prescribed time limit, have the illegal income confiscated and a fine of not more than five times the amount of the illegal income may be imposed; where there is no illegal income, a fine of not more than 50,000 yuan may be imposed concurrently, where no renewal formalities have been gone through again after the expiration date, the production and market shall be ordered to stop, the Pesticide Registration Certificate or Temporary Pesticide Registration Certificate be revoked by the original issuing organs of certificate;

(3) Those who produce or market the pesticide products with unlabelled packages, or damaged or illegible labels or whose labels have been altered without authorization shall be given a warning and have the illegal income confiscated, and a fine of not more than three times the amount of the illegal income may be imposed concurrently; where there is no illegal income, a fine of not more than 30,000 yuan may be imposed concurrently;

(4) Those who fail to use pesticides in line with the relevant provisions of the State on the safe use of pesticides shall, based on the harmful consequences therefrom, be given a warning, and a fine of not more than 30,000 yuan may be imposed concurrently.

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Article 43 Anyone who produces or markets fake pesticides or those of inferior quality pesticides shall, in compliance with the provisions in the Criminal Law on the crime of producing or selling fake and substandard commodities or the crime of producing or selling fake and substandard pesticides, be investigated for criminal liabilities according to law; if such acts are not serious enough for criminal punishment, the competent administrative department of agriculture or other relevant department as stipulated by the laws or administrative regulations shall confiscate the fake pesticide or inferior quality pesticides and illegal income, and concurrently impose a fine of not less than one time but not more than ten

times the illegal income, or a fine of not more than 100,000 yuan if there is no illegal income; where the circumstances are serious, the Pesticide Registration Certificate or Temporary Pesticide Registration Certificate shall be revoked by the competent administrative department of agriculture, and the Pesticide Production License or approval document for Pesticide Production shall be revoked by the department for licensing administration of industrial products.

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Chapter VIII Supplementary provisions

Article 48 Where an international treaty related to pesticides that the People's Republic of China has concluded or acceded to contains the provisions different from those of these Regulations, the provisions of the international treaty shall apply, unless the provisions are those on which the People's Republic of China has declared reservations.

Article 49 These Regulations shall be effective as of May 8, 1997.

Conclusion

The use of pesticides has played a great role in improving agricultural production, but this had a negative impact on agricultural environment, farmers and consumers' health. This regulation brings a significant decrease of highly toxic and residual pesticides use, and standardizes the basic pesticide market order. However, there are still many problems in pesticide use, pesticide market and pesticide administration. That's why the regulation is being developed by authority, and the new one may come soon.

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