afford the State submitting the plan due notice and opportunity for hearing before so doing. If the Administrator approves a plan submitted under subsection (a)(2), then such State shall certify applicators of pesticides with respect to such State. Whenever the Administrator determines that a State is not administering the certification program in accordance with the plan approved under this section, the Administrator shall so notify the State and provide for a hearing at the request of the State, and, if appropriate corrective action is not taken within a reasonable time, not to exceed ninety days, the Administrator shall withdraw approval of such plan.

(c) **Instruction in integrated pest management techniques**

Standards prescribed by the Administrator for the certification of applicators of pesticides under subsection (a), and State plans submitted to the Administrator under subsection (a), shall include provisions for making instructional materials concerning integrated pest management techniques available to individuals at their request in accordance with the provisions of section 136u(c) of this title, but such plans may not require that any individual receive instruction concerning such techniques or to be shown to be competent with respect to the use of such techniques. The Administrator and States implementing such plans shall provide that all interested individuals are notified on the availability of such instructional materials.

(d) **In general**

No regulations prescribed by the Administrator for carrying out the provisions of this subchapter shall require any private applicator to maintain any records or file any reports or other documents.

(e) **Separate standards**

When establishing or approving standards for licensing or certification, the Administrator shall establish separate standards for commercial and private applicators.


**CODIFICATION**

Pub. L. 100-532, §801(q)(1)(A), transferred subsecs. (a) to (c) of section 4 of act June 25, 1947, which was classified to section 136i of this title, to subsecs. (a) to (c) of this section.

**PRIOR PROVISIONS**

A prior section 11 of act June 25, 1947, was classified to section 136i of this title prior to amendment of act June 25, 1947, by Pub. L. 92-516.

**AMENDMENTS**


Subsec. (a)(1), Pub. L. 102-237, §1006(b)(3)(K), substituted “the applicator” for “his” in ninth sentence and “the Administrator” for “him” before period at end.
Federal agency shall conduct surveys and record the data from individual applicators to facilitate statistical analysis for environmental and agronomic purposes, but in no case may a government agency release data, including the location from which the data was derived, that would directly or indirectly reveal the identity of individual producers. In the case of Federal agencies, such access to records maintained under subsection (a) shall be through the Secretary of Agriculture, or the Secretary's designee. State agency requests for access to records maintained under subsection (a) shall be through the lead State agency so designated by the State.

(c) Health care personnel

When a health professional determines that pesticide information maintained under this section is necessary to provide medical treatment or first aid to an individual who may have been exposed to pesticides for which the information is maintained, upon request persons required to maintain records under subsection (a) shall promptly provide record and available label information to that health professional. In the case of an emergency, such record information shall be provided immediately.

(d) Penalty

The Secretary of Agriculture shall be responsible for the enforcement of subsections (a), (b), and (c). A violation of such subsection shall—

(1) in the case of the first offense, be subject to a fine of not more than $500; and

(2) in the case of subsequent offenses, be subject to a fine of not less than $1,000 for each violation, except that the penalty shall be less than $1,000 if the Secretary determines that the person made a good faith effort to comply with such subsection.

(e) Federal or State provisions

The requirements of this section shall not affect provisions of other Federal or State laws.

(f) Surveys and reports

The Secretary of Agriculture and the Administrator of the Environmental Protection Agency, shall survey the records maintained under subsection (a) to develop an annual comprehensive report concerning agricultural and non-agricultural pesticide use. The Secretary and Administrator shall enter into a memorandum of understanding to define their respective responsibilities under this subsection in order to avoid duplication of effort. Such reports shall be transmitted to Congress not later than April 1 of each year.

(g) Regulations

The Secretary of Agriculture and the Administrator of the Environmental Protection Agency shall promulgate regulations on their respective areas of responsibility implementing this section within 180 days after November 28, 1990.

§ 136j. Unlawful acts

(a) In general

(1) Except as provided by subsection (b), it shall be unlawful for any person in any State to distribute or sell to any person—

(A) any pesticide that is not registered under section 136a of this title or whose registration has been canceled or suspended, except to the extent that distribution or sale otherwise has been authorized by the Administrator under this subchapter;