

1 ENGROSSED HOUSE AMENDMENT  
TO  
2 ENGROSSED SENATE BILL NO. 1884 By: Justice of the Senate  
3 and  
4 Biggs of the House  
5  
6

7 [ agriculture - Oklahoma Combined Pesticide Law -  
8 threshold requirements - effective date ]  
9

10 AMENDMENT NO. 1. Strike the stricken title, enacting clause and  
11 entire bill and insert

12 "An Act relating to agriculture; amending 2 O.S.  
13 2011, Sections 3-81, 3-84 and 3-85, which relate to  
14 the Oklahoma Combined Pesticide Law, modifying  
15 references; modifying scope of certain rules;  
16 modifying certain uniformity requirements; deleting  
17 certain threshold requirements for samples of  
18 pesticide materials; and providing an effective  
19 date.

20 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

21 SECTION 1. AMENDATORY 2 O.S. 2011, Section 3-81, is  
22 amended to read as follows:

23 Section 3-81. As used in ~~this subarticle~~ the Combined Pesticide  
24 Law:

1. "Aircraft" means any contrivance used or designed for  
navigation of or flight in the air over land or water and is

1 designed for or adaptable for use in applying pesticides as sprays,  
2 dusts, or other forms;

3 2. "Active ingredient" means an ingredient, which defoliates  
4 plants, prevents fruit drop, inhibits sprouting, or destroys,  
5 repels, or mitigates insects, fungi, bacteria, rodents, weeds, or  
6 other pests;

7 3. "Adulterated" means and includes any pesticide if the  
8 pesticide strength or purity falls below the professed standard of  
9 quality as expressed on labeling or under which it is sold, or if  
10 any substance has been substituted wholly or in part for the  
11 components of the pesticide, or if any valuable constituent of the  
12 components of the pesticide has been wholly or in part abstracted;

13 4. "Antidote" means the most practical immediate treatment in  
14 case of poisoning and includes but is not limited to first aid  
15 treatment;

16 5. "Business location" means any place, site, or facility  
17 maintained by a commercial or noncommercial applicator where  
18 records, including but not limited to, financial statements,  
19 payroll, insurance, and personnel documents are maintained,  
20 pesticides are stored, or customers are served. A location serving  
21 strictly as a telephone answering service shall not be considered a  
22 business location;

23 6. "Certificate" means a written document issued to an  
24 individual by the State Board of Agriculture which indicates that

1 the individual has met the certification standards established by  
2 ~~this subarticle~~ the Combined Pesticide Law for the category of  
3 pesticide application shown on the certificate. A certificate does  
4 not allow a person to do work as a commercial, noncommercial,  
5 service technician, or private applicator unless employed by a  
6 licensed entity or has a valid license issued by the Board;

7 7. "Certification standards" means the standards that a person  
8 shall meet to become a certified applicator;

9 8. "Certified applicator" means a person who has met the  
10 certification standards;

11 9. "Commercial application" means the advertising of services,  
12 recommendation for use, the preparation for application, ~~and~~ or the  
13 physical act of applying a pesticide or employment of a device for  
14 hire or compensation;

15 10. "Commercial applicator" means any person engaging in the  
16 commercial application of pesticides or commercial employment of  
17 devices. Any farmer while working for a neighbor in agricultural  
18 production, not advertising, and not held out to be in the business  
19 of applying restricted-use pesticides, shall not be classified by  
20 the Board as a commercial applicator;

21 11. "Contract" means a binding, written agreement between two  
22 or more persons spelling out terms and conditions and includes, but  
23 is not limited to, warranties or guarantees for pesticide  
24 application. For structural pest control applications, the contract

1 shall also include a statement, plat, or diagram showing all  
2 locations of visible termites and termite damaged materials which  
3 are observed, and how the application was performed;

4 12. "Defoliant" means any pesticide intended to cause the  
5 leaves or foliage to drop from a plant, with or without causing  
6 abscission;

7 13. "Desiccant" means any pesticide intended to artificially  
8 accelerate the drying of plant tissues;

9 14. "Device" means any instrument subject to the United States  
10 Environmental Protection Agency regulation intended for trapping,  
11 destroying, repelling, or mitigating insects or rodents, or  
12 mitigating fungi, bacteria, or weeds, or other pests designated by  
13 the Board, but not including equipment used for the application of  
14 pesticides when sold separately;

15 15. "Direct supervision" means that the certified applicator is  
16 responsible for assuring that persons working, subject to direct  
17 supervision, are qualified to handle pesticides and are instructed  
18 in the application of the specific pesticides used in each  
19 particular application conducted which is subject to their  
20 supervision. Certified applicators shall be accessible to the  
21 noncertified applicator at all times during the application of the  
22 pesticide by telephone, radio, or any device approved by the Board;

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1       16. "Fungi" means all nonchlorophyll-bearing thallophytes,  
2 including, but not limited to, rusts, smuts, mildews, molds, yeasts,  
3 and bacteria, except those on humans or animals;

4       17. "Fungicide" means any pesticide intended for preventing,  
5 destroying, repelling, or mitigating any fungi or bacteria;

6       18. "Ground equipment" means any machine, equipment, or device  
7 other than aircraft designed for use, adaptable for use, or used on  
8 land or water in applying pesticides as sprays, dusts, aerosols,  
9 fogs, or other forms;

10       19. "Herbicide" means any pesticide intended for preventing,  
11 destroying, repelling, desiccating, or mitigating any weed, or for  
12 defoliating plants, preventing fruit drop, and inhibiting sprouting;

13       20. "Inert ingredient" means an ingredient, which is not an  
14 active ingredient;

15       21. "Ingredient statement" means a statement containing the  
16 name and percentage of each active ingredient, and the total  
17 percentage of all inert ingredients in the pesticide. If the  
18 pesticide contains arsenic in any form, the percentages of total and  
19 water-soluble arsenic shall each be calculated as elemental arsenic;

20       22. "Insect" means any of the numerous small invertebrate six-  
21 legged animals generally having the body more or less obviously  
22 segmented, many belonging to the class Insecta, including, but not  
23 limited to, beetles, bugs, and flies as well as allied classes of  
24

1 arthropods including spiders, mites, ticks, centipedes, and wood  
2 lice;

3 23. "Insecticide" means any pesticide intended for preventing,  
4 destroying, repelling, or mitigating any insects which may be  
5 present in any environment;

6 24. "Label" means the written, printed, or graphic matter  
7 attached to the pesticide, device, or container including the  
8 outside container or wrapper of the retail package of the pesticide  
9 or device;

10 25. "Labeling" means all labels and other written, printed, or  
11 graphic material:

- 12 a. upon the pesticide, device, or any of its containers  
13 or wrappers,
- 14 b. accompanying the pesticide or device at any time, or
- 15 c. to which reference is made on the label or in  
16 literature accompanying the pesticide or device except  
17 when accurate, nonmisleading reference is made to  
18 current official publications of the United States  
19 Environmental Protection Agency, United States  
20 Department of Agriculture, United States Department of  
21 the Interior, the United States Public Health Service,  
22 State Experiment Stations, State Agricultural  
23 Colleges, or other federal institutions or official  
24

1 agencies of this state or other states authorized by  
2 law to conduct research in the field of pesticides;

3 26. "License" means a written document issued to a person by  
4 the Board which shows that the person has met all established  
5 licensing requirements established by ~~this subarticle~~ the Combined  
6 Pesticide Law and who is authorized to apply pesticides as a  
7 commercial, noncommercial, or private applicator pursuant to the  
8 license issued;

9 27. "Minimum standards" means the measures prescribed by the  
10 Board to bring appropriate pesticide services to the public;

11 28. "Misbranded" means and includes:

12 a. any pesticide or device if its labeling bears any  
13 statement, design, or graphic representation relative  
14 to its ingredients which is false or misleading, or

15 b. any pesticide or device:

16 (1) if it is an imitation of or is offered for sale  
17 under the name of another pesticide or device,

18 (2) if its labeling bears any reference to  
19 registration under ~~this subarticle~~ the Combined  
20 Pesticide Law,

21 (3) if the labeling accompanying it does not contain  
22 instructions for use which are necessary and, if  
23 complied with, adequate for the protection of the  
24 public,

- 1 (4) if the label does not contain a warning or  
2 caution statement which may be necessary and, if  
3 complied with, adequate to prevent injury to  
4 humans and vertebrate animals,
- 5 (5) if the label does not bear an ingredient  
6 statement on that part of the immediate container  
7 and on the outside container or wrapper, if there  
8 is one, through which the ingredient statement on  
9 the immediate container cannot be clearly read,  
10 of the retail package which is presented or  
11 displayed under customary conditions of purchase,
- 12 (6) if any word, statement, or other information  
13 required by or under the authority of ~~this~~  
14 ~~subarticle~~ the Combined Pesticide Law to appear  
15 on the labeling is not prominently placed with  
16 conspicuousness, as compared with other words,  
17 statements, designees, or graphic matter in the  
18 labeling, and in terms likely to be read and  
19 understood by an individual under customary  
20 conditions of purchase and use, or
- 21 (7) if in the case of an insecticide, fungicide, or  
22 herbicide, when used as directed or in accordance  
23 with commonly recognized practice, it shall be  
24 injurious to humans, vertebrate animals, or



1           vegetation, except weeds, to which it is applied,  
2           or to the person applying the pesticide;

3       29. "Noncommercial applicator" means any person, other than a  
4 commercial or private applicator, who uses or supervises the use of  
5 a restricted-use pesticide. The noncommercial applicator shall be  
6 under the supervision of an owner or manager of property and who is  
7 certified in the same manner as a commercial applicator. A  
8 noncommercial applicator is subject to all requirements except those  
9 pertaining to financial responsibility. Noncommercial applicator  
10 includes a government employee applying restricted-use pesticides in  
11 the discharge of official duties;

12       30. "Nonrestricted-use pesticide" means any pesticide, other  
13 than a pesticide classified as restricted-use pesticide;

14       31. "Nonrestricted-use pesticide dealer" means any person  
15 engaged in the sale, storage, or distribution of any pesticide other  
16 than those pesticides classified by the United States Environmental  
17 Protection Agency or the Board as restricted-use pesticides;

18       32. "Permit" means a written document issued by the Board which  
19 shows that a person has met all of the permitting requirements  
20 established by ~~this subarticle~~ the Combined Pesticide Law and is  
21 authorized to sell pesticides as a restricted-use or nonrestricted-  
22 use pesticide dealer in accordance with the type of permit issued;

23       33. "Pest" means any organism harmful to man including, but not  
24 limited to, insects, mites, nematodes, weeds, and pathogenic

1 organisms. Pathogenic organisms include viruses, mycoplasma,  
2 bacteria, rickettsia, and fungi which the Board declares to be a  
3 pest;

4 34. "Pesticide" means a substance or mixture of substances  
5 intended for defoliating or desiccating plants, preventing fruit  
6 drop, inhibiting sprouting, or for preventing, destroying,  
7 repelling, or mitigating any insects, rodents, fungi, bacteria,  
8 weeds, or other forms of plant or animal life or viruses, which the  
9 Board declares to be a pest, except viruses on or in humans or  
10 animals;

11 35. "Private applicator" means any person who uses or  
12 supervises the use of any restricted pesticide for purposes of  
13 producing any agricultural commodity on property owned or rented by  
14 the person, or employer, or on the property of another person if  
15 applied without compensation other than trading of personal services  
16 between producers of agricultural commodities;

17 36. "Registrant" means the person registering any pesticide or  
18 device pursuant to the provisions of ~~this subarticle~~ the Combined  
19 Pesticide Law;

20 37. "Restricted-use pesticide" means any pesticide classified  
21 for restricted use by the United States Environmental Protection  
22 Agency, either by regulation or through the registration process, or  
23 by the Board pursuant to the Oklahoma Agricultural Code;

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1        38. "Restricted-use pesticide dealer" means any person engaged  
2 in the sale, storage, or distribution of restricted-use pesticides;

3        39. "Rodenticide" means any pesticide intended for preventing,  
4 destroying, repelling, or mitigating rodents or any other animal  
5 which the Board declares a pest;

6        40. "Service technician" means a person employed by a licensed  
7 commercial or noncommercial applicator who applies the pesticide or  
8 employs a device, but is not a certified applicator. A service  
9 technician or certified applicator shall be present at each  
10 application performed;

11       41. "Temporary certified applicator" means a person who has  
12 successfully completed the written examinations required for  
13 certification but has not successfully completed the practical  
14 examination;

15       42. "Use" means transportation, storage, mixing, application,  
16 safe handling, waste and container disposal, and other specific  
17 instructions contained on the label and labeling;

18       43. "Weed" means any plant or plant part which grows where not  
19 wanted; and

20       44. "Wood infestation report" means a document issued with a  
21 property transaction which shall, at a minimum, contain statements  
22 or certifications as to the presence or absence of termites and any  
23 other wood destroying insects, and the presence or absence of  
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1 damage. The wood infestation report does not include a bid or  
2 proposal for treatment.

3 SECTION 2. AMENDATORY 2 O.S. 2011, Section 3-84, is  
4 amended to read as follows:

5 Section 3-84. A. The Board shall have the authority to declare  
6 any form of plant or animal life or virus which is injurious to  
7 plants, humans, domestic animals, articles, or substances as a pest.  
8 The Board shall have the authority to classify pesticide uses as  
9 being general, restricted, or both, to determine standards of  
10 coloring or discoloring for pesticides, and to subject pesticides to  
11 the requirements of this ~~subarticle~~ section.

12 B. The Board shall promulgate appropriate rules for carrying  
13 out the provisions of this ~~subarticle, including, but not limited~~  
14 ~~to, rules providing for the collection and examination of any~~  
15 ~~samples necessary to evaluate the quality, quantity, or~~  
16 ~~effectiveness of pesticides or devices~~ section.

17 C. ~~There shall be~~ The Board shall, to the extent practical,  
18 create uniformity between the requirements of Oklahoma, ~~the several~~  
19 ~~states, and the Federal Government relating to the coloring or~~  
20 ~~discoloring of pesticides. The Board may promulgate rules~~  
21 ~~applicable to and in conformity with the primary standards~~  
22 ~~established by this subarticle, as have been or may be~~ those  
23 prescribed by the Federal Insecticide, Fungicide and Rodenticide  
24 Act, as amended.

1 SECTION 3. AMENDATORY 2 O.S. 2011, Section 3-85, is  
2 amended to read as follows:

3 Section 3-85. A. 1. The State Board of Agriculture shall  
4 administer and enforce the provisions of ~~this subarticle and the~~  
5 Oklahoma Combined Pesticide Law.

6 2. The State Board of Agriculture shall promulgate rules and  
7 standards for the application, use or sale of pesticides, rules for  
8 pesticide registration, standards for contracts and recordkeeping,  
9 work performance, prescribe standards for the licensing of  
10 application of pesticides, issuing pesticide dealer permits,  
11 certification, recertification procedures, and storing and disposal  
12 of pesticide and pesticide containers.

13 ~~2. The rules and standards shall conform, at a minimum, to~~  
14 ~~existing state law,~~

15 3. The Board shall, to the extent practical, create uniformity  
16 between the requirements of Oklahoma and to those prescribed by the  
17 Federal Insecticide, Fungicide and Rodenticide Act.

18 ~~3.~~ 4. The Board ~~shall~~ is empowered to cooperate with and  
19 negotiate reciprocal agreements with the federal government or any  
20 state, or any department or agency of either for the purpose of  
21 fulfilling the intent of this ~~subarticle~~ section and securing  
22 uniformity of rules.

23 ~~4.~~ 5. The Board may inspect any work, records, or contracts of  
24 each applicator, manufacturer, or dealer to determine whether or not

1 the work is performed according to the provisions of this ~~subarticle~~  
2 section or rules promulgated thereunder.

3 ~~5.~~ 6. For the purpose of securing uniformity of rules, no city,  
4 town, county, or other political subdivision of this state shall  
5 adopt or continue in effect any ordinance, rule, regulation, or  
6 statute regarding pesticide sale or use that is more stringent than  
7 the rules of the Board, including, but not limited to, registration,  
8 notification, posting, advertising and marketing, distribution,  
9 applicator training and certification, storage, transportation,  
10 disposal, disclosure of confidential information, or product  
11 composition.

12 ~~6.~~ 7. The Board may take samples of pesticide materials in  
13 order to determine their concentration or residue level. If the  
14 Board finds that such samples are not within established standards,  
15 the Board's finding shall be considered prima facie evidence that a  
16 violation has occurred.

- 17 a. The concentration of an active ingredient for a  
18 pesticide concentrate, shall not exceed or be less  
19 than the concentration of active ingredient stated on  
20 the pesticide label by more or less than the tolerance  
21 for active ingredient concentration specified by this  
22 paragraph. Concentrations above or below the  
23 established tolerance shall be prima facie evidence  
24 that a pesticide is adulterated or misbranded:

- 1 (1) pesticides with a stated concentration of active  
2 ingredient less than 0.51% shall not exceed 150%  
3 or fail to meet 80% of the stated active  
4 ingredient on the pesticide label when analyzed,
- 5 (2) pesticides with a stated concentration of active  
6 ingredient not less than 0.51% and not more than  
7 1.0% shall not exceed 140% or fail to meet 85% of  
8 the stated active ingredient on the pesticide  
9 label when analyzed,
- 10 (3) pesticides with a stated concentration of active  
11 ingredient not less than 1.01% and not more than  
12 5.00% shall not exceed 140% or fail to meet 90%  
13 of the stated active ingredient on the pesticide  
14 label when analyzed,
- 15 (4) pesticides with a stated concentration of active  
16 ingredient not less than 5.01% and not more than  
17 10.00% shall not exceed 130% or fail to meet 92%  
18 of the stated active ingredient on the pesticide  
19 label when analyzed,
- 20 (5) pesticides with a stated concentration of active  
21 ingredient not less than 10.01% and not more than  
22 50.00% shall not exceed 125% or fail to meet 94%  
23 of the stated active ingredient on the pesticide  
24 label when analyzed, and

1 (6) pesticides with a stated concentration of active  
2 ingredient not less than 50.01% and more than  
3 100.00% shall not exceed 115% or fail to meet 96%  
4 of the stated active ingredient on the pesticide  
5 label when analyzed.

6 b. The concentration of an active ingredient for a  
7 pesticide concentrate in fertilizer and pesticide  
8 mixtures, pressed blocks and nonuniform baits shall  
9 not be less than the concentration of active  
10 ingredient stated on the pesticide label for the  
11 tolerance for active ingredient concentration  
12 specified by this paragraph. Concentrations below the  
13 established tolerance shall be prima facie evidence  
14 that a pesticide is adulterated or misbranded:

15 (1) when the stated concentration of active  
16 ingredient on the pesticide label is less than  
17 1.26% the minimum amount of active ingredient  
18 shall be at least 67.0% of the stated  
19 concentration on the pesticide label when  
20 analyzed,

21 (2) when the stated concentration of active  
22 ingredient on the pesticide label is not less  
23 than 1.26% or more than 5.0% the minimum amount  
24 of active ingredient shall be at least 80.0% of



1 the stated concentration on the pesticide label  
2 when analyzed, and

3 (3) when the stated concentration of active  
4 ingredient on the pesticide label is more than  
5 5.0% the minimum amount of active ingredient  
6 shall be at least 85.0% of the stated  
7 concentration on the pesticide label when  
8 analyzed.

9 c. The concentration of an active ingredient for a  
10 pesticide concentrate in rotenone, pyrethrin and other  
11 natural product formulations shall not be less than  
12 the concentration of active ingredient stated on the  
13 pesticide label for the tolerance for active  
14 ingredient concentration specified by this paragraph.  
15 Concentrations below the established tolerance shall  
16 be prima facie evidence that a pesticide is  
17 adulterated or misbranded:

18 (1) when the stated concentration of active  
19 ingredient on the pesticide label is less than  
20 0.51% the minimum amount of active ingredient  
21 shall be at least 70.0% of the state  
22 concentration on the pesticide label when  
23 analyzed,

24

1 (2) when the stated concentration of active  
2 ingredient on the pesticide label is not less  
3 than 0.51% or more than 1.25% the minimum amount  
4 of active ingredient shall be at least 80.0% of  
5 the stated concentration on the pesticide label  
6 when analyzed, and

7 (3) when the stated concentration of active  
8 ingredient on the pesticide label is more than  
9 1.25% the minimum amount of active ingredient  
10 shall be at least 85.0% of the stated  
11 concentration on the pesticide label when  
12 analyzed.

13 d. The concentration of an active ingredient for a  
14 pesticide tank mix, as stated by the applicator and  
15 allowed by the pesticide label, shall not exceed or be  
16 less than the concentration of active ingredient  
17 stated by more or less than the tolerance for active  
18 ingredient concentration specified by this paragraph.  
19 Concentrations above or below the established  
20 tolerance shall be prima facie evidence of a use  
21 unsuitable, unsafe or inconsistent with its label or  
22 labeling. No pesticide shall be formulated into a  
23 tank mix at a concentration in excess of or below that  
24 permitted by the pesticide label without written

1 approval from an authorized agent of the Oklahoma  
2 Department of Agriculture, Food, and Forestry:

3 (1) when the stated concentration or that allowed by  
4 the pesticide label is less than 0.51% the  
5 minimum amount of active ingredient in the tank  
6 mix shall be at least 60.0% and not more than  
7 150.0% of the stated concentration or that  
8 allowed by the pesticide label when analyzed,

9 (2) when the stated concentration or that allowed by  
10 the pesticide label is not less than 0.51% and  
11 not more than 1.0% the minimum amount of active  
12 ingredient in the tank mix shall be at least  
13 70.0% and not more than 140.0% of the stated  
14 concentration or that allowed by the pesticide  
15 label when analyzed,

16 (3) when the stated concentration or that allowed by  
17 the pesticide label is not less than 1.01% and  
18 not more than 5.0% the minimum amount of active  
19 ingredient in the tank mix shall be at least  
20 80.0% and not more than 140.0% of the stated  
21 concentration or that allowed by the pesticide  
22 label when analyzed,

23 (4) when the stated concentration or that allowed by  
24 the pesticide label is not less than 5.01% and

1 not more than 10.0% the minimum amount of active  
2 ingredient in the tank mix shall be at least  
3 84.0% and not more than 130.0% of the stated  
4 concentration or that allowed by the pesticide  
5 label when analyzed,

6 (5) when the stated concentration or that allowed by  
7 the pesticide label is not less than 10.01% and  
8 not more than 50.0% the minimum amount of active  
9 ingredient in the tank mix shall be at least  
10 88.0% and not more than 125.0% of the stated  
11 concentration or that allowed by the pesticide  
12 label when analyzed, and

13 (6) when the stated concentration or that allowed by  
14 the pesticide label is not less than 50.01% and  
15 not more than 100.0% the minimum amount of active  
16 ingredient in the tank mix shall be at least  
17 92.0% and not more than 115.0% of the stated  
18 concentration or that allowed by the pesticide  
19 label when analyzed.

20 e. ~~The threshold level for soil residue of pesticide~~  
21 ~~concentration expressed in parts per million (ppm) for~~  
22 ~~post construction termiticide treatment shall meet or~~  
23 ~~exceed the established concentration specified by this~~  
24 ~~paragraph in soils sampled within one hundred eighty~~

1 ~~(180) days of treatment for vertical barriers. Soil~~  
2 ~~residue concentration below the threshold level~~  
3 ~~specified by this paragraph shall be prima facie~~  
4 ~~evidence of a use unsuitable, unsafe or inconsistent~~  
5 ~~with its label or labeling:~~

6 ~~(1) the termiticide Torpedo shall have a soil residue~~  
7 ~~threshold level of at least sixty-three (63) ppm,~~

8 ~~(2) the termiticide Tribute shall have a soil residue~~  
9 ~~threshold level of at least one hundred fifty~~  
10 ~~(150) ppm,~~

11 ~~(3) the termiticide Prevail FT shall have a soil~~  
12 ~~residue threshold level of at least forty-six~~  
13 ~~(46) ppm,~~

14 ~~(4) the termiticide Demon TC shall have a soil~~  
15 ~~residue threshold level of at least twenty-eight~~  
16 ~~(28) ppm,~~

17 ~~(5) the termiticide Dragnet FT shall have a soil~~  
18 ~~residue threshold level of at least eighty-five~~  
19 ~~(85) ppm,~~

20 ~~(6) the termiticide Dursban TC shall have a soil~~  
21 ~~residue threshold level of at least fifty-one~~  
22 ~~(51) ppm, and~~

23 ~~(7) the termiticide Premise shall have a soil residue~~  
24 ~~threshold level of at least ten (10) ppm.~~

1           ~~f. The threshold level for soil residue of pesticide~~  
2           ~~concentration expressed in parts per million (ppm) for~~  
3           ~~preconstruction termiticide treatment shall meet or~~  
4           ~~exceed the established concentration specified by this~~  
5           ~~paragraph in soils sampled within thirty (30) days of~~  
6           ~~treatment for vertical barriers. Soil residue~~  
7           ~~concentration below the threshold level specified by~~  
8           ~~this paragraph shall be prima facie evidence of a use~~  
9           ~~unsuitable, unsafe or inconsistent with its label or~~  
10           ~~labeling:~~

11           ~~(1) the termiticide Torpedo shall have a soil residue~~  
12           ~~threshold level of at least ninety (90) ppm,~~

13           ~~(2) the termiticide Tribute shall have a soil residue~~  
14           ~~threshold level of at least two hundred four~~  
15           ~~(204) ppm,~~

16           ~~(3) the termiticide Prevail FT shall have a soil~~  
17           ~~residue threshold level of at least sixty four~~  
18           ~~(64) ppm,~~

19           ~~(4) the termiticide Demon TC shall have a soil~~  
20           ~~residue threshold level of at least forty one~~  
21           ~~(41) ppm,~~

22           ~~(5) the termiticide Dagnet FT shall have a soil~~  
23           ~~residue threshold level of at least ninety seven~~  
24           ~~(97) ppm,~~

1 ~~(6) the termiticide Dursban TC shall have a soil~~  
2 ~~residue threshold level of at least one hundred~~  
3 ~~(100) ppm, and~~

4 ~~(7) the termiticide Premise shall have a soil residue~~  
5 ~~threshold level of at least ten (10) ppm.~~

6 g. ~~The threshold level for soil residue of pesticide~~  
7 ~~concentration expressed in parts per million (ppm) for~~  
8 ~~preconstruction termiticide treatment shall meet or~~  
9 ~~exceed the established concentration specified by this~~  
10 ~~paragraph in soils sampled within one hundred eighty~~  
11 ~~(180) days of treatment for vertical barriers. Soil~~  
12 ~~residue concentration below the threshold level~~  
13 ~~specified by this paragraph shall be prima facie~~  
14 ~~evidence of a use unsuitable, unsafe or inconsistent~~  
15 ~~with its label or labeling:~~

16 ~~(1) the termiticide Torpedo shall have a soil residue~~  
17 ~~threshold level of at least sixty three (63) ppm,~~

18 ~~(2) the termiticide Tribute shall have a soil residue~~  
19 ~~threshold level of at least one hundred fifty~~  
20 ~~(150) ppm,~~

21 ~~(3) the termiticide Prevail FT shall have a soil~~  
22 ~~residue threshold level of at least forty-six~~  
23 ~~(46) ppm,~~

24

1 ~~(4) the termiticide Demon TC shall have a soil~~  
2 ~~residue threshold level of at least twenty-eight~~  
3 ~~(28) ppm,~~

4 ~~(5) the termiticide Dagnet FT shall have a soil~~  
5 ~~residue threshold level of at least eighty-five~~  
6 ~~(85) ppm,~~

7 ~~(6) the termiticide Dursban TC shall have a soil~~  
8 ~~residue threshold level of at least fifty-one~~  
9 ~~(51) ppm, and~~

10 ~~(7) the termiticide Premise shall have a soil residue~~  
11 ~~threshold level of at least ten (10) ppm.~~

12 ~~h. The threshold level for soil residue of pesticide~~  
13 ~~concentration expressed in parts per million (ppm) for~~  
14 ~~preconstruction termiticide treatment shall meet or~~  
15 ~~exceed the established concentration specified by this~~  
16 ~~paragraph in soils sampled within thirty (30) days of~~  
17 ~~treatment for horizontal barriers. Soil residue~~  
18 ~~concentration below the threshold level specified by~~  
19 ~~this paragraph shall be prima facie evidence of a use~~  
20 ~~unsuitable, unsafe or inconsistent with its label or~~  
21 ~~labeling:~~

22 ~~(1) the termiticide Torpedo shall have a soil residue~~  
23 ~~threshold level of at least sixty-eight (68) ppm,~~  
24



1           ~~(2) the termiticide Tribute shall have a soil residue~~  
2           ~~threshold level of at least one hundred fifty~~  
3           ~~three (153) ppm,~~

4           ~~(3) the termiticide Prevail FT shall have a soil~~  
5           ~~residue threshold level of at least forty-eight~~  
6           ~~(48) ppm,~~

7           ~~(4) the termiticide Demon TC shall have a soil~~  
8           ~~residue threshold level of at least thirty-one~~  
9           ~~(31) ppm,~~

10          ~~(5) the termiticide Dragnet FT shall have a soil~~  
11          ~~residue threshold level of at least seventy-three~~  
12          ~~(73) ppm,~~

13          ~~(6) the termiticide Dursban TC shall have a soil~~  
14          ~~residue threshold level of at least seventy-five~~  
15          ~~(75) ppm, and~~

16          ~~(7) the termiticide Premise shall have a soil residue~~  
17          ~~threshold level of at least five (5) ppm.~~

18          ~~i. The threshold level for soil residue of pesticide~~  
19          ~~concentration expressed in parts per million (ppm) for~~  
20          ~~preconstruction termiticide treatment shall meet or~~  
21          ~~exceed the established concentration specified by this~~  
22          ~~paragraph in soils sampled within one hundred eighty~~  
23          ~~(180) days of treatment for horizontal barriers. Soil~~  
24          ~~residue concentration below the threshold level~~

1 ~~specified by this paragraph shall be prima facie~~  
2 ~~evidence of a use unsuitable, unsafe or inconsistent~~  
3 ~~with its label or labeling:~~

4 ~~(1) the termiticide Torpedo shall have a soil residue~~  
5 ~~threshold level of at least forty-seven (47) ppm,~~

6 ~~(2) the termiticide Tribute shall have a soil residue~~  
7 ~~threshold level of at least one hundred thirteen~~  
8 ~~(113) ppm,~~

9 ~~(3) the termiticide Prevail FT shall have a soil~~  
10 ~~residue threshold level of at least thirty-five~~  
11 ~~(35) ppm,~~

12 ~~(4) the termiticide Demon TC shall have a soil~~  
13 ~~residue threshold level of at least twenty-one~~  
14 ~~(21) ppm,~~

15 ~~(5) the termiticide Dagnet FT shall have a soil~~  
16 ~~residue threshold level of at least sixty-four~~  
17 ~~(64) ppm,~~

18 ~~(6) the termiticide Dursban TC shall have a soil~~  
19 ~~residue threshold level of at least thirty-eight~~  
20 ~~(38) ppm, and~~

21 ~~(7) the termiticide Premise shall have a soil residue~~  
22 ~~threshold level of at least five (5) ppm.~~

23 ~~j.~~ The State Board of Agriculture may promulgate, by  
24 rule, ~~interim~~ maximum and minimum concentrations or

1 thresholds for the other concentrate of pesticides in  
2 products, or soil residues.

3 B. Authorized agents of the Board shall have the authority to  
4 issue notices of violation, citations, compliance orders, stop  
5 sales, or stop work orders to those persons committing violations of  
6 the laws or rules relating to pesticides or pesticide application in  
7 this state.

8 C. 1. Examinations of pesticides or devices shall be made  
9 under the direction of the Board for the purpose of determining if  
10 there has been compliance with the requirements of this ~~subarticle~~  
11 section.

12 2. If it appears from examination that a pesticide or device  
13 fails to comply with the provisions of this ~~subarticle~~ section, and  
14 the Board contemplates instituting administrative proceedings  
15 against any person, the Board shall cause notice and an opportunity  
16 for a hearing given to the person pursuant to the Administrative  
17 Procedures Act.

18 D. 1. Any pesticide or device distributed, sold, or offered  
19 for sale within this state or delivered for transportation or  
20 transported in intrastate or interstate commerce may be seized by  
21 the Oklahoma Department of Agriculture, Food, and Forestry in any  
22 county of the state where it may be found and if:

- 23 a. in the case of a pesticide, it is adulterated or  
24 misbranded, it has not been registered ~~under the~~

1 ~~provisions of this subarticle~~, it fails to bear on its  
2 label the required information ~~required by this~~  
3 ~~subarticle~~, or it is a white powder pesticide and it  
4 is not colored as required ~~under this subarticle~~, or

5 b. in the case of a device, it is misbranded.

6 2. If the pesticide or device is condemned it shall, after  
7 entry of decree or judgment of a district court, be disposed of by  
8 destruction or sale as the court may direct. If the article is  
9 sold, the proceeds, less court costs, shall be paid to the State  
10 Department of Agriculture Revolving Fund.

11 3. The court shall not order the sale or disposal of a  
12 condemned pesticide or device in a manner which would be a violation  
13 of this ~~subarticle~~ section or rules promulgated thereto.

14 4. The person or entity directed to dispose or sell the  
15 condemned pesticide or device shall do so in a manner that complies  
16 with the order of the district court and this ~~subarticle~~ section and  
17 rules promulgated thereto.

18 5. The court may direct that the pesticide or article be  
19 delivered to the owner for relabeling or reprocessing.

20 6. If there is a person who is successful in intervening as  
21 claimant of the pesticide or device, when a decree of judgment of  
22 condemnation is entered against the pesticide or device, court  
23 costs, fees, storage, and other proper expenses shall be awarded  
24 against such claimant.

1 E. The Board may, by publication in a manner as it may  
2 prescribe, give notice of all judgments entered in action,  
3 instituted under ~~the~~ its authority ~~of this subarticle~~.

4 F. All authority vested in the Board ~~by the provisions of this~~  
5 ~~subarticle~~ shall with like force and effect be executed by its  
6 officers, employees, and authorized agents.

7 G. EXCEPTION - The fines provided for violations ~~of this~~  
8 ~~subarticle~~ may not apply to:

9 1. Any carrier while lawfully engaged in transporting a  
10 pesticide within this state, if the carrier permits the Board upon  
11 request to copy all records showing the transaction in and movement  
12 of the pesticide and devices involved;

13 2. Public officials of this state and of the Federal Government  
14 engaged in the performance of official duties;

15 3. The manufacturer or shipper of a pesticide or device for  
16 experimental use only, by or under the supervision of an agency of  
17 this state or of the Federal Government authorized by law to conduct  
18 research in the field of pesticides or devices, or by others if the  
19 pesticide or the device is not sold or if the container is plainly  
20 and conspicuously marked "for experimental use only - not to be  
21 sold", together with the manufacturer's name and address, if a  
22 written permit has been obtained from the Board. Pesticides or  
23 devices may be sold for experimental purposes subject to  
24 restrictions set forth in the permit; and

1 4. Pesticides and devices intended solely for export to a  
2 foreign country, and prepared or packed according to the  
3 specifications or directions of the purchaser. If not exported, all  
4 of the provisions of this ~~subarticle~~ section shall apply.

5 H. 1. The Department of Environmental Quality shall have  
6 environmental jurisdiction over:

- 7 a. commercial manufacturers of fertilizers, grain and  
8 feed products, and chemicals, and over manufacturing  
9 of food and kindred products, tobacco, paper, lumber,  
10 wood, textile mill and other agricultural products,  
11 b. slaughterhouses, but not including feedlots at these  
12 facilities, and  
13 c. aquaculture and fish hatcheries, including, but not  
14 limited to, discharges of pollutants and storm water  
15 to waters of the state, surface impoundments and land  
16 application of wastes and sludge, and other pollution  
17 originating at these facilities; and

18 2. Facilities which store grain, feed, seed, fertilizer, and  
19 agricultural chemicals that are required by federal National  
20 Pollutant Discharge Elimination Systems (NPDES) regulations to  
21 obtain a permit for storm water discharges shall only be subject to  
22 the jurisdiction of the Department of Environmental Quality with  
23 respect to such storm water discharges.

1 I. This section shall not prevent any political subdivision  
2 from complying with any applicable federal law or regulation. A  
3 political subdivision which takes any action prohibited by this  
4 title in order to comply with federal requirements shall notify the  
5 Board of its compliance plan prior to taking any action. The Board  
6 may assist the political subdivision in complying with federal  
7 requirements necessary to carry out the policy of this section. The  
8 Board may permit a political subdivision to impose standards more  
9 stringent than required by the Board if necessary for the political  
10 subdivision to comply with federal requirements.

11 SECTION 4. This act shall become effective November 1, 2014."

12 Passed the House of Representatives the 23rd day of April, 2014.

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\_\_\_\_\_  
Presiding Officer of the House of  
Representatives

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17 Passed the Senate the \_\_\_\_ day of \_\_\_\_\_, 2014.

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Presiding Officer of the Senate

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