

1 STATE OF OKLAHOMA

2 2nd Session of the 54th Legislature (2014)

3 COMMITTEE SUBSTITUTE
4 FOR ENGROSSED
5 SENATE BILL NO. 1884

By: Justice of the Senate

and

6 Biggs of the House

7
8
9 COMMITTEE SUBSTITUTE

10 An Act relating to agriculture; amending 2 O.S. 2011,
11 Sections 3-81, 3-84, 3-85, which relate to the
12 Oklahoma Combined Pesticide Law, modifying
13 references; modifying the State Board of
14 Agriculture's duty to promulgate rules; modifying
15 certain uniformity requirements; deleting certain
16 threshold requirements for samples of pesticide
17 materials; and providing an effective date.

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

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

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

23 1. "Aircraft" means any contrivance used or designed for
24 navigation of or flight in the air over land or water and is
designed for or adaptable for use in applying pesticides as sprays,
dusts, or other forms;

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

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

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

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

21 6. "Certificate" means a written document issued to an
22 individual by the State Board of Agriculture which indicates that
23 the individual has met the certification standards established by
24 ~~this subarticle~~ the Combined Pesticide Law for the category of

1 pesticide application shown on the certificate. A certificate does
2 not allow a person to do work as a commercial, noncommercial,
3 service technician, or private applicator unless employed by a
4 licensed entity or has a valid license issued by the Board;

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

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

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

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

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

1 locations of visible termites and termite damaged materials which
2 are observed, and how the application was performed;

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

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

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

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

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

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

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

7 19. "Herbicide" means any pesticide intended for preventing,
8 destroying, repelling, desiccating, or mitigating any weed, or for
9 defoliating plants, preventing fruitdrop, and inhibiting sprouting;

10 20. "Inert ingredient" means an ingredient, which is not an
11 active ingredient;

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

17 22. "Insect" means any of the numerous small invertebrate six-
18 legged animals generally having the body more or less obviously
19 segmented, many belonging to the class Insecta, including, but not
20 limited to, beetles, bugs, and flies as well as allied classes of
21 arthropods including spiders, mites, ticks, centipedes, and wood
22 lice;

23

24

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

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

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

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

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

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

9 28. "Misbranded" means and includes:

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

13 b. any pesticide or device:

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

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

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

23 (4) if the label does not contain a warning or
24 caution statement which may be necessary and, if

1 complied with, adequate to prevent injury to
2 humans and vertebrate animals,

3 (5) if the label does not bear an ingredient
4 statement on that part of the immediate container
5 and on the outside container or wrapper, if there
6 is one, through which the ingredient statement on
7 the immediate container cannot be clearly read,
8 of the retail package which is presented or
9 displayed under customary conditions of purchase,

10 (6) if any word, statement, or other information
11 required by or under the authority of ~~this~~
12 ~~subarticle~~ the Combined Pesticide Law to appear
13 on the labeling is not prominently placed with
14 conspicuousness, as compared with other words,
15 statements, designees, or graphic matter in the
16 labeling, and in terms likely to be read and
17 understood by an individual under customary
18 conditions of purchase and use, or

19 (7) if in the case of an insecticide, fungicide, or
20 herbicide, when used as directed or in accordance
21 with commonly recognized practice, it shall be
22 injurious to humans, vertebrate animals, or
23 vegetation, except weeds, to which it is applied,
24 or to the person applying the pesticide;

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

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

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

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

21 33. "Pest" means any organism harmful to man including, but not
22 limited to, insects, mites, nematodes, weeds, and pathogenic
23 organisms. Pathogenic organisms include viruses, mycoplasma,
24

1 bacteria, rickettsia, and fungi which the Board declares to be a
2 pest;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

16 ~~3.~~ 4. The Board ~~shall~~ is empowered to cooperate with and
17 negotiate reciprocal agreements with the federal government or any
18 state, or any department or agency of either for the purpose of
19 fulfilling the intent of this ~~subarticle~~ section and securing
20 uniformity of rules.

21 ~~4.~~ 5. The Board may inspect any work, records, or contracts of
22 each applicator, manufacturer, or dealer to determine whether or not
23 the work is performed according to the provisions of this ~~subarticle~~
24 section or rules promulgated thereunder.

1 ~~5.~~ 6. For the purpose of securing uniformity of rules, no city,
2 town, county, or other political subdivision of this state shall
3 adopt or continue in effect any ordinance, rule, regulation, or
4 statute regarding pesticide sale or use that is more stringent than
5 the rules of the Board, including, but not limited to, registration,
6 notification, posting, advertising and marketing, distribution,
7 applicator training and certification, storage, transportation,
8 disposal, disclosure of confidential information, or product
9 composition.

10 ~~6.~~ 7. The Board may take samples of pesticide materials in
11 order to determine their concentration or residue level. If the
12 Board finds that such samples are not within established standards,
13 the Board's finding shall be considered prima facie evidence that a
14 violation has occurred.

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

23 (1) pesticides with a stated concentration of active
24 ingredient less than 0.51% shall not exceed 150%

1 or fail to meet 80% of the stated active
2 ingredient on the pesticide label when analyzed,

3 (2) pesticides with a stated concentration of active
4 ingredient not less than 0.51% and not more than
5 1.0% shall not exceed 140% or fail to meet 85% of
6 the stated active ingredient on the pesticide
7 label when analyzed,

8 (3) pesticides with a stated concentration of active
9 ingredient not less than 1.01% and not more than
10 5.00% shall not exceed 140% or fail to meet 90%
11 of the stated active ingredient on the pesticide
12 label when analyzed,

13 (4) pesticides with a stated concentration of active
14 ingredient not less than 5.01% and not more than
15 10.00% shall not exceed 130% or fail to meet 92%
16 of the stated active ingredient on the pesticide
17 label when analyzed,

18 (5) pesticides with a stated concentration of active
19 ingredient not less than 10.01% and not more than
20 50.00% shall not exceed 125% or fail to meet 94%
21 of the stated active ingredient on the pesticide
22 label when analyzed, and

23 (6) pesticides with a stated concentration of active
24 ingredient not less than 50.01% and more than

1 100.00% shall not exceed 115% or fail to meet 96%
2 of the stated active ingredient on the pesticide
3 label when analyzed.

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

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

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

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

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

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

22 (2) when the stated concentration of active
23 ingredient on the pesticide label is not less
24 than 0.51% or more than 1.25% the minimum amount

1 of active ingredient shall be at least 80.0% of
2 the stated concentration on the pesticide label
3 when analyzed, and

4 (3) when the stated concentration of active
5 ingredient on the pesticide label is more than
6 1.25% the minimum amount of active ingredient
7 shall be at least 85.0% of the stated
8 concentration on the pesticide label when
9 analyzed.

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

- 1 (1) when the stated concentration or that allowed by
2 the pesticide label is less than 0.51% the
3 minimum amount of active ingredient in the tank
4 mix shall be at least 60.0% and not more than
5 150.0% of the stated concentration or that
6 allowed by the pesticide label when analyzed,
- 7 (2) when the stated concentration or that allowed by
8 the pesticide label is not less than 0.51% and
9 not more than 1.0% the minimum amount of active
10 ingredient in the tank mix shall be at least
11 70.0% and not more than 140.0% of the stated
12 concentration or that allowed by the pesticide
13 label when analyzed,
- 14 (3) when the stated concentration or that allowed by
15 the pesticide label is not less than 1.01% and
16 not more than 5.0% the minimum amount of active
17 ingredient in the tank mix shall be at least
18 80.0% and not more than 140.0% of the stated
19 concentration or that allowed by the pesticide
20 label when analyzed,
- 21 (4) when the stated concentration or that allowed by
22 the pesticide label is not less than 5.01% and
23 not more than 10.0% the minimum amount of active
24 ingredient in the tank mix shall be at least

1 84.0% and not more than 130.0% of the stated
2 concentration or that allowed by the pesticide
3 label when analyzed,

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

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

18 e. ~~The threshold level for soil residue of pesticide~~
19 ~~concentration expressed in parts per million (ppm) for~~
20 ~~post construction 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 vertical 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 sixty-three (63) ppm,~~

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

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

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

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

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

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

23 ~~f. The threshold level for soil residue of pesticide~~
24 ~~concentration expressed in parts per million (ppm) for~~

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

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

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

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

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

20 ~~(5) the termiticide Dragnet FT shall have a soil~~
21 ~~residue threshold level of at least ninety seven~~
22 ~~(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.
24

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.

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13 54-2-10636 AMM 03/26/14

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