

SENATE BILL NO. 161

INTRODUCED BY WEEDING, YELLOWTAIL, T. BECK, GILBERT, HARP,
GRADY, DRISCOLL
BY REQUEST OF THE ENVIRONMENTAL QUALITY COUNCIL

IN THE SENATE

JANUARY 22, 1991 INTRODUCED AND REFERRED TO COMMITTEE
ON AGRICULTURE, LIVESTOCK, & IRRIGATION.

FIRST READING.

JANUARY 31, 1991 COMMITTEE RECOMMEND BILL
DO PASS. REPORT ADOPTED.

FEBRUARY 1, 1991 PRINTING REPORT.

FEBRUARY 2, 1991 SECOND READING, DO PASS.

FEBRUARY 4, 1991 ENGROSSING REPORT.

THIRD READING, PASSED.
AYES, 46; NOES, 3.

TRANSMITTED TO HOUSE.

IN THE HOUSE

FEBRUARY 5, 1991 INTRODUCED AND REFERRED TO COMMITTEE
ON AGRICULTURE, LIVESTOCK, & IRRIGATION.

FIRST READING.

FEBRUARY 12, 1991 COMMITTEE RECOMMEND BILL BE
CONCURRED IN. REPORT ADOPTED.

FEBRUARY 16, 1991 SECOND READING, CONCURRED IN.

FEBRUARY 18, 1991 THIRD READING, CONCURRED IN.
AYES, 99; NOES, 0.

RETURNED TO SENATE.

IN THE SENATE

FEBRUARY 18, 1991 RECEIVED FROM HOUSE.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 *Senate* BILL NO. *161*
 2 INTRODUCED BY *Wesley Helms*
 3 BY REQUEST OF THE ENVIRONMENTAL QUALITY COUNCIL
 4 *Gilbert Harr*
 5 A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING THE
 6 DEPARTMENT OF AGRICULTURE TO ESTABLISH A VOLUNTARY WASTE
 7 PESTICIDE REPORTING SYSTEM; DIRECTING THE DEPARTMENT TO
 8 DEVELOP A PROPOSED WASTE PESTICIDE DISPOSAL PROGRAM;
 9 AMENDING SECTION 80-8-102, MCA; AND PROVIDING AN EFFECTIVE
 10 DATE."

11
 12 WHEREAS, Montana agricultural producers, government
 13 agencies, and citizens possess a substantial volume of waste
 14 pesticides that they cannot use in compliance with current
 15 regulatory requirements or are unable to beneficially use
 16 for a variety of other reasons; and

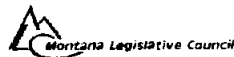
17 WHEREAS, all Montanans have an interest in providing for
 18 the proper disposal of waste pesticides for purposes of
 19 protecting public health and safety, ground water quality,
 20 and other resources.

21
 22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

23 **Section 1.** Section 80-8-102, MCA, is amended to read:

24 ***80-8-102. Definitions.** Unless the context requires
 25 otherwise, in this chapter the following definitions apply:

- 1 (1) "Active ingredient" means:
 2 (a) in the case of a pesticide, other than a plant
 3 regulator, defoliant, or desiccant, an ingredient which will
 4 prevent, destroy, repel, alter life processes, or mitigate
 5 insects, nematodes, fungi, rodents, weeds, or other pests;
 6 (b) in the case of a plant regulator, an ingredient
 7 which acts upon the physiology to accelerate or retard the
 8 rate of growth or rate of maturation or otherwise alter the
 9 normal processes of ornamental or crop plants or their
 10 produce;
 11 (c) in the case of a defoliant, an ingredient which
 12 will cause the leaves or foliage to drop from a plant;
 13 (d) in the case of a desiccant, an ingredient which
 14 will artificially accelerate the drying of plant tissue.
 15 (2) "Adulterated" applies to a pesticide if its
 16 strength of purity falls below the professed standard or
 17 quality as expressed on labeling or under which it is sold
 18 or if any substance has been substituted wholly or in part
 19 for the pesticide or if any valuable constituent of the
 20 pesticide has been wholly or in part abstracted.
 21 (3) "Antidote" means the most practical immediate
 22 treatment in case of poisoning and includes first-aid
 23 treatment.
 24 (4) "Applicator" means a person who applies pesticides
 25 by any method.



1 (5) "Beneficial insects" means those insects which, in
2 the course of their life cycle, carry, transmit, or spread
3 pollen to and from vegetation, act as parasites and
4 predators on other insects, or are otherwise beneficial.

5 (6) "Commercial applicator" means a person who by
6 contract or for hire applies by aerial, ground, or hand
7 equipment pesticides to land, plants, seed, animals, waters,
8 structures, or vehicles.

9 (7) "Commercial operator" means a person who applies
10 pesticides under the supervision of a commercial applicator.

11 (8) "Crop" means a food intended for human or animal
12 consumption or a fiber product.

13 (9) "Dealer" means a person who sells, wholesales,
14 offers or exposes for sale, exchanges, barter, or gives
15 away within this state any pesticide except those pesticides
16 which are to be used for home, yard, garden, home orchard,
17 shade trees, ornamental trees, bushes, and lawn.

18 (10) "Defoliant" means a substance or mixture of
19 substances for causing the leaves or foliage to drop from a
20 plant, with or without causing abscission.

21 (11) "Desiccant" means a substance or mixture of
22 substances for artificially accelerating the drying of plant
23 tissue.

24 (12) "Device" means any instrument or contrivance
25 intended for destroying, controlling, repelling, or

1 mitigating pests but not equipment used for the application
2 of pesticides.

3 (13) "Environment" means the soil, air, water, plants,
4 and animals.

5 (14) "Equipment" means equipment used in the actual
6 application of pesticides, including aircraft, ground
7 sprayers and dusters, hand-held applicators, and water
8 surface equipment.

9 (15) "Farm applicator" means a person applying
10 pesticides to his own crops or land.

11 (16) "Fungi" means all nonchlorophyll-bearing
12 thallophytes (all nonchlorophyll-bearing plants of a lower
13 order than mosses and liverworts) as, for example, rusts,
14 smuts, mildews, molds, yeasts, and bacteria, except those
15 resident on or in living man or other animals.

16 (17) "Fungicide" means a substance or mixture of
17 substances for preventing, destroying, repelling, or
18 mitigating any fungus.

19 (18) "Herbicide" means a substance or mixture of
20 substances for preventing, destroying, repelling, or
21 mitigating any weed.

22 (19) "Inert ingredient" means an ingredient which is not
23 an active ingredient.

24 (20) "Ingredient statement" means either:

25 (a) a statement of the chemical name and common name

1 and percentage of each active ingredient, together with the
 2 total percentage of the inert ingredients, in the pesticide;
 3 or

4 (b) a statement of the chemical name and common name of
 5 each active ingredient, together with the name of each and
 6 total percentage of the inert ingredients, if any, in the
 7 pesticide. However, subsection (20)(a) of this section
 8 applies if the preparation is highly toxic to man,
 9 determined as provided in 80-8-105; and if the pesticide
 10 contains arsenic in any form, the ingredient statement shall
 11 also include a statement of the percentage of total and
 12 water-soluble arsenic, each calculated as elemental arsenic.

13 (21) "Insect" means any of the numerous small
 14 invertebrate animals generally having the body more or less
 15 obviously segmented, for the most part belonging to the
 16 class insecta, comprising six-legged, winged and wingless
 17 forms, such as beetles, bugs, wasps, flies, and keds, and to
 18 other classes of arthropods whose members are wingless and
 19 usually have more than six legs, such as spiders, mites,
 20 ticks, centipedes, and wood lice.

21 (22) "Insecticide" means any substance or mixture of
 22 substances for preventing, destroying, repelling, or
 23 mitigating any insects present in any environment.

24 (23) "Label" means the written, printed, or graphic
 25 matter on or attached to the pesticide or device or to its

1 immediate container and any outside container or wrapper of
 2 any retail package of the pesticide or device.

3 (24) "Labeling" means all labels and other written,
 4 printed, or graphic matter:

5 (a) upon the pesticide or device or any of its
 6 containers or wrappers;

7 (b) accompanying the pesticide or device at any time;

8 (c) to which reference is made on the label or in
 9 literature accompanying the pesticide or device, except when
 10 accurate, nonmisleading reference is made to current
 11 official publications of the United States environmental
 12 protection agency; departments of agriculture, interior, or
 13 health, education, and welfare; state experiment stations;
 14 state agricultural colleges; or other similar federal
 15 institutions or official agencies of this state or other
 16 states authorized by law to conduct research in the field of
 17 pesticides.

18 (25) "Misbranded" applies:

19 (a) to a pesticide or device if its labeling bears any
 20 statement, design, or graphic representation relative to its
 21 ingredients which is false or misleading;

22 (b) to a pesticide if:

23 (i) it is an imitation of or is offered for sale under
 24 the name of another pesticide;

25 (ii) its labeling bears any reference to registration

1 under this chapter;

2 (iii) the labeling accompanying it does not contain
3 instructions for use necessary and, if complied with,
4 adequate for the protection of the public;

5 (iv) the label does not contain a warning or caution
6 statement necessary and, if complied with, adequate to
7 prevent injury to living man or undue hazard to the
8 environment;

9 (v) the label of the retail package which is presented
10 or displayed under customary conditions of purchase does not
11 bear an ingredient statement on that part of the immediate
12 container and on the outside or on a wrapper through which
13 the ingredient statement on the immediate container cannot
14 be clearly read;

15 (vi) any word, statement, or other information required
16 to appear on the labeling is not prominently placed on the
17 labeling with a conspicuousness (as compared with other
18 words, statements, designs, or graphic matter in the
19 labeling) and in terms rendering it likely to be read and
20 understood by the ordinary individual under customary
21 conditions of purchase and use;

22 (vii) in the case of an insecticide, nematocide,
23 fungicide, or herbicide, when used as directed or in
24 accordance with commonly recognized practice, it is
25 injurious to living men or other vertebrate animals or

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

3 (viii) in the case of a plant regulator, defoliant, or
4 desiccant, when used as directed, it is injurious to man or
5 other vertebrate animals or vegetation to which it is
6 applied or to the person applying the pesticide. Physical or
7 physiological effects on plants or parts of plants are not
8 injurious when this is the purpose for which the plant
9 regulator, defoliant, or desiccant is applied in accordance
10 with the label claims and recommendations.

11 (26) "Nematocide" means any substance or mixture of
12 substances intended for preventing, destroying, repelling,
13 or mitigating nematodes.

14 (27) "Nematodes", "nemas", or "eelworms" means
15 invertebrate animals of the phylum nemathelminthes and class
16 nematoda, that is, unsegmented round worms with elongated,
17 fusiform, or sac-like bodies covered with cuticle and
18 inhabiting soil, water, animals, plants, or plant parts.

19 (28) "Person" means any natural person, individual,
20 firm, partnership, association, corporation, company,
21 joint-stock association, body politic, or organized group of
22 persons, whether incorporated or not, and any trustee,
23 receiver, assignee, or similar representative.

24 (29) "Pest" includes any insect, rodent, nematode,
25 snail, slug, weed, and any form of plant or animal life or

1 virus, except virus on or in living man or other animal,
2 which is normally considered a pest or which the department
3 declares a pest.

4 (30) "Pesticide" means any:

5 (a) substance or mixture of substances, including any
6 living organism or any product derived from a living
7 organism, intended for preventing, destroying, controlling,
8 repelling, altering life processes, or mitigating any
9 insects, rodents, nematodes, fungi, weeds, and other forms
10 of plant or animal life or viruses, except viruses on or in
11 living man or other animals, that may infect or be
12 detrimental to persons, vegetation, crops, animals,
13 structures, or households or be present in any environment
14 or which the department declares a pest;

15 (b) substance or mixture of substances intended for use
16 as a plant regulator, defoliant, or desiccant; and

17 (c) other substances intended for that use named by the
18 department by a rule adopted by it.

19 (31) "Plant regulator" means any substance or mixture of
20 substances affecting the rate of growth or rate of
21 maturation or for otherwise altering physiological condition
22 of plants but does not include substances to the extent that
23 they are intended as plant nutrients, trace elements,
24 nutritional chemicals, plant inoculants, and soil
25 amendments.

1 (32) "Public utility applicator" means a person applying
2 pesticides to land and structures owned or leased by a
3 public utility.

4 (33) "Registrant" means the person registering any
5 pesticide or device under the provisions of this chapter.

6 (34) "Restricted-use pesticide" means any pesticide,
7 including highly toxic pesticides, which the department has
8 found and determined, subsequent to a hearing, to be
9 injurious when used in accordance with registration, label,
10 directions, and cautions to persons, beneficial insects,
11 animals, crops, or the environment other than the pests it
12 is intended to prevent, destroy, control, or mitigate.

13 (35) "Retailer" means any person who sells, offers or
14 exposes for sale, exchanges, barter, or gives away within
15 this state any pesticide for home, yard, lawn, and garden
16 use, in quantities or concentrations as determined by the
17 department of agriculture.

18 (36) "Waste pesticide" means a pesticide:

19 (a) that may not be used legally because the
20 environmental protection agency or the department has
21 canceled or suspended the pesticide's registration or has
22 taken other administrative action to prohibit use of the
23 pesticide;

24 (b) that will not be used for reasons including but not
25 limited to product damage, toxicity, or obsolescence; or

1 (c) that cannot be disposed of in a legal or
2 economically feasible manner.

3 ~~(36)~~(37) "Weed" means any plant or part of the plant
4 which grows where not wanted."

5 NEW SECTION. Section 2. Voluntary waste pesticide
6 reporting system -- proposed program -- pesticide
7 information. (1) The department shall establish a voluntary
8 reporting system to encourage pesticide applicators and
9 other persons to report:

10 (a) the types and volume of waste pesticides in their
11 possession; and

12 (b) the county where the waste pesticides are stored.

13 (2) The department shall inventory the waste pesticide
14 information reported under subsection (1) and develop a
15 proposed waste pesticide disposal program for consideration
16 by the legislature in 1993.

17 (3) All waste pesticide information reported to the
18 department under subsection (1) is confidential. The
19 department may summarize the information for purposes of
20 preparing a waste pesticide inventory report that is public
21 information. If a waste pesticide disposal program is not
22 approved by the legislature in 1993, the department shall
23 destroy the waste pesticide information received under
24 subsection (1).

25 NEW SECTION. Section 3. Codification instruction.

1 [Section 2] is intended to be codified as an integral part
2 of Title 80, chapter 8, part 1, and the provisions of Title
3 80, chapter 8, part 1, apply to [section 2].

4 NEW SECTION. Section 4. Effective date. [This act] is
5 effective July 1, 1991.

-End-

APPROVED BY COMMITTEE
ON AGRICULTURE LIVESTOCK
& IRRIGATION

Senate BILL NO. *161*

INTRODUCED BY *Wesley Hellewell*
BY REQUEST OF THE ENVIRONMENTAL QUALITY COUNCIL
Bilbert HARP Gundy Ormsill

1
2
3
4
5 A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING THE
6 DEPARTMENT OF AGRICULTURE TO ESTABLISH A VOLUNTARY WASTE
7 PESTICIDE REPORTING SYSTEM; DIRECTING THE DEPARTMENT TO
8 DEVELOP A PROPOSED WASTE PESTICIDE DISPOSAL PROGRAM;
9 AMENDING SECTION 80-8-102, MCA; AND PROVIDING AN EFFECTIVE
10 DATE."

11
12 WHEREAS, Montana agricultural producers, government
13 agencies, and citizens possess a substantial volume of waste
14 pesticides that they cannot use in compliance with current
15 regulatory requirements or are unable to beneficially use
16 for a variety of other reasons; and

17 WHEREAS, all Montanans have an interest in providing for
18 the proper disposal of waste pesticides for purposes of
19 protecting public health and safety, ground water quality,
20 and other resources.

21
22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

23 **Section 1.** Section 80-8-102, MCA, is amended to read:
24 *80-8-102. Definitions. Unless the context requires
25 otherwise, in this chapter the following definitions apply:

- 1 (1) "Active ingredient" means:
2 (a) in the case of a pesticide, other than a plant
3 regulator, defoliant, or desiccant, an ingredient which will
4 prevent, destroy, repel, alter life processes, or mitigate
5 insects, nematodes, fungi, rodents, weeds, or other pests;
6 (b) in the case of a plant regulator, an ingredient
7 which acts upon the physiology to accelerate or retard the
8 rate of growth or rate of maturation or otherwise alter the
9 normal processes of ornamental or crop plants or their
10 produce;
11 (c) in the case of a defoliant, an ingredient which
12 will cause the leaves or foliage to drop from a plant;
13 (d) in the case of a desiccant, an ingredient which
14 will artificially accelerate the drying of plant tissue.
15 (2) "Adulterated" applies to a pesticide if its
16 strength of purity falls below the professed standard or
17 quality as expressed on labeling or under which it is sold
18 or if any substance has been substituted wholly or in part
19 for the pesticide or if any valuable constituent of the
20 pesticide has been wholly or in part abstracted.
21 (3) "Antidote" means the most practical immediate
22 treatment in case of poisoning and includes first-aid
23 treatment.
24 (4) "Applicator" means a person who applies pesticides
25 by any method.



1 (5) "Beneficial insects" means those insects which, in
2 the course of their life cycle, carry, transmit, or spread
3 pollen to and from vegetation, act as parasites and
4 predators on other insects, or are otherwise beneficial.

5 (6) "Commercial applicator" means a person who by
6 contract or for hire applies by aerial, ground, or hand
7 equipment pesticides to land, plants, seed, animals, waters,
8 structures, or vehicles.

9 (7) "Commercial operator" means a person who applies
10 pesticides under the supervision of a commercial applicator.

11 (8) "Crop" means a food intended for human or animal
12 consumption or a fiber product.

13 (9) "Dealer" means a person who sells, wholesales,
14 offers or exposes for sale, exchanges, barter, or gives
15 away within this state any pesticide except those pesticides
16 which are to be used for home, yard, garden, home orchard,
17 shade trees, ornamental trees, bushes, and lawn.

18 (10) "Defoliant" means a substance or mixture of
19 substances for causing the leaves or foliage to drop from a
20 plant, with or without causing abscission.

21 (11) "Desiccant" means a substance or mixture of
22 substances for artificially accelerating the drying of plant
23 tissue.

24 (12) "Device" means any instrument or contrivance
25 intended for destroying, controlling, repelling, or

1 mitigating pests but not equipment used for the application
2 of pesticides.

3 (13) "Environment" means the soil, air, water, plants,
4 and animals.

5 (14) "Equipment" means equipment used in the actual
6 application of pesticides, including aircraft, ground
7 sprayers and dusters, hand-held applicators, and water
8 surface equipment.

9 (15) "Farm applicator" means a person applying
10 pesticides to his own crops or land.

11 (16) "Fungi" means all nonchlorophyll-bearing
12 thallophytes (all nonchlorophyll-bearing plants of a lower
13 order than mosses and liverworts) as, for example, rusts,
14 smuts, mildews, molds, yeasts, and bacteria, except those
15 resident on or in living man or other animals.

16 (17) "Fungicide" means a substance or mixture of
17 substances for preventing, destroying, repelling, or
18 mitigating any fungus.

19 (18) "Herbicide" means a substance or mixture of
20 substances for preventing, destroying, repelling, or
21 mitigating any weed.

22 (19) "Inert ingredient" means an ingredient which is not
23 an active ingredient.

24 (20) "Ingredient statement" means either:

25 (a) a statement of the chemical name and common name

1 and percentage of each active ingredient, together with the
 2 total percentage of the inert ingredients, in the pesticide;
 3 or

4 (b) a statement of the chemical name and common name of
 5 each active ingredient, together with the name of each and
 6 total percentage of the inert ingredients, if any, in the
 7 pesticide. However, subsection (20)(a) of this section
 8 applies if the preparation is highly toxic to man,
 9 determined as provided in 80-8-105; and if the pesticide
 10 contains arsenic in any form, the ingredient statement shall
 11 also include a statement of the percentage of total and
 12 water-soluble arsenic, each calculated as elemental arsenic.

13 (21) "Insect" means any of the numerous small
 14 invertebrate animals generally having the body more or less
 15 obviously segmented, for the most part belonging to the
 16 class insecta, comprising six-legged, winged and wingless
 17 forms, such as beetles, bugs, wasps, flies, and keds, and to
 18 other classes of arthropods whose members are wingless and
 19 usually have more than six legs, such as spiders, mites,
 20 ticks, centipedes, and wood lice.

21 (22) "Insecticide" means any substance or mixture of
 22 substances for preventing, destroying, repelling, or
 23 mitigating any insects present in any environment.

24 (23) "Label" means the written, printed, or graphic
 25 matter on or attached to the pesticide or device or to its

1 immediate container and any outside container or wrapper of
 2 any retail package of the pesticide or device.

3 (24) "Labeling" means all labels and other written,
 4 printed, or graphic matter:

5 (a) upon the pesticide or device or any of its
 6 containers or wrappers;

7 (b) accompanying the pesticide or device at any time;

8 (c) to which reference is made on the label or in
 9 literature accompanying the pesticide or device, except when
 10 accurate, nonmisleading reference is made to current
 11 official publications of the United States environmental
 12 protection agency; departments of agriculture, interior, or
 13 health, education, and welfare; state experiment stations;
 14 state agricultural colleges; or other similar federal
 15 institutions or official agencies of this state or other
 16 states authorized by law to conduct research in the field of
 17 pesticides.

18 (25) "Misbranded" applies:

19 (a) to a pesticide or device if its labeling bears any
 20 statement, design, or graphic representation relative to its
 21 ingredients which is false or misleading;

22 (b) to a pesticide if:

23 (i) it is an imitation of or is offered for sale under
 24 the name of another pesticide;

25 (ii) its labeling bears any reference to registration

1 under this chapter;

2 (iii) the labeling accompanying it does not contain
3 instructions for use necessary and, if complied with,
4 adequate for the protection of the public;

5 (iv) the label does not contain a warning or caution
6 statement necessary and, if complied with, adequate to
7 prevent injury to living man or undue hazard to the
8 environment;

9 (v) the label of the retail package which is presented
10 or displayed under customary conditions of purchase does not
11 bear an ingredient statement on that part of the immediate
12 container and on the outside or on a wrapper through which
13 the ingredient statement on the immediate container cannot
14 be clearly read;

15 (vi) any word, statement, or other information required
16 to appear on the labeling is not prominently placed on the
17 labeling with a conspicuousness (as compared with other
18 words, statements, designs, or graphic matter in the
19 labeling) and in terms rendering it likely to be read and
20 understood by the ordinary individual under customary
21 conditions of purchase and use;

22 (vii) in the case of an insecticide, nematocide,
23 fungicide, or herbicide, when used as directed or in
24 accordance with commonly recognized practice, it is
25 injurious to living men or other vertebrate animals or

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

3 (viii) in the case of a plant regulator, defoliant, or
4 desiccant, when used as directed, it is injurious to man or
5 other vertebrate animals or vegetation to which it is
6 applied or to the person applying the pesticide. Physical or
7 physiological effects on plants or parts of plants are not
8 injurious when this is the purpose for which the plant
9 regulator, defoliant, or desiccant is applied in accordance
10 with the label claims and recommendations.

11 (26) "Nematocide" means any substance or mixture of
12 substances intended for preventing, destroying, repelling,
13 or mitigating nematodes.

14 (27) "Nematodes", "nemas", or "eelworms" means
15 invertebrate animals of the phylum nemathelminthes and class
16 nematoda, that is, unsegmented round worms with elongated,
17 fusiform, or sac-like bodies covered with cuticle and
18 inhabiting soil, water, animals, plants, or plant parts.

19 (28) "Person" means any natural person, individual,
20 firm, partnership, association, corporation, company,
21 joint-stock association, body politic, or organized group of
22 persons, whether incorporated or not, and any trustee,
23 receiver, assignee, or similar representative.

24 (29) "Pest" includes any insect, rodent, nematode,
25 snail, slug, weed, and any form of plant or animal life or

1 virus, except virus on or in living man or other animal,
2 which is normally considered a pest or which the department
3 declares a pest.

4 (30) "Pesticide" means any:

5 (a) substance or mixture of substances, including any
6 living organism or any product derived from a living
7 organism, intended for preventing, destroying, controlling,
8 repelling, altering life processes, or mitigating any
9 insects, rodents, nematodes, fungi, weeds, and other forms
10 of plant or animal life or viruses, except viruses on or in
11 living man or other animals, that may infect or be
12 detrimental to persons, vegetation, crops, animals,
13 structures, or households or be present in any environment
14 or which the department declares a pest;

15 (b) substance or mixture of substances intended for use
16 as a plant regulator, defoliant, or desiccant; and

17 (c) other substances intended for that use named by the
18 department by a rule adopted by it.

19 (31) "Plant regulator" means any substance or mixture of
20 substances affecting the rate of growth or rate of
21 maturation or for otherwise altering physiological condition
22 of plants but does not include substances to the extent that
23 they are intended as plant nutrients, trace elements,
24 nutritional chemicals, plant inoculants, and soil
25 amendments.

1 (32) "Public utility applicator" means a person applying
2 pesticides to land and structures owned or leased by a
3 public utility.

4 (33) "Registrant" means the person registering any
5 pesticide or device under the provisions of this chapter.

6 (34) "Restricted-use pesticide" means any pesticide,
7 including highly toxic pesticides, which the department has
8 found and determined, subsequent to a hearing, to be
9 injurious when used in accordance with registration, label,
10 directions, and cautions to persons, beneficial insects,
11 animals, crops, or the environment other than the pests it
12 is intended to prevent, destroy, control, or mitigate.

13 (35) "Retailer" means any person who sells, offers or
14 exposes for sale, exchanges, barter, or gives away within
15 this state any pesticide for home, yard, lawn, and garden
16 use, in quantities or concentrations as determined by the
17 department of agriculture.

18 (36) "Waste pesticide" means a pesticide:

19 (a) that may not be used legally because the
20 environmental protection agency or the department has
21 canceled or suspended the pesticide's registration or has
22 taken other administrative action to prohibit use of the
23 pesticide;

24 (b) that will not be used for reasons including but not
25 limited to product damage, toxicity, or obsolescence; or

1 (c) that cannot be disposed of in a legal or
2 economically feasible manner.

3 ~~{36}~~{37} "Weed" means any plant or part of the plant
4 which grows where not wanted."

5 NEW SECTION. Section 2. Voluntary waste pesticide
6 reporting system -- proposed program -- pesticide
7 information. (1) The department shall establish a voluntary
8 reporting system to encourage pesticide applicators and
9 other persons to report:

10 (a) the types and volume of waste pesticides in their
11 possession; and

12 (b) the county where the waste pesticides are stored.

13 (2) The department shall inventory the waste pesticide
14 information reported under subsection (1) and develop a
15 proposed waste pesticide disposal program for consideration
16 by the legislature in 1993.

17 (3) All waste pesticide information reported to the
18 department under subsection (1) is confidential. The
19 department may summarize the information for purposes of
20 preparing a waste pesticide inventory report that is public
21 information. If a waste pesticide disposal program is not
22 approved by the legislature in 1993, the department shall
23 destroy the waste pesticide information received under
24 subsection (1).

25 NEW SECTION. Section 3. Codification instruction.

1 [Section 2] is intended to be codified as an integral part
2 of Title 80, chapter 8, part 1, and the provisions of Title
3 80, chapter 8, part 1, apply to [section 2].

4 NEW SECTION. Section 4. Effective date. [This act] is
5 effective July 1, 1991.

-End-

1 *Senate* BILL NO. *161*
 2 INTRODUCED BY *Wesley H. Houtwater*
 3 BY REQUEST OF THE ENVIRONMENTAL QUALITY COUNCIL
 4 *Bilbert HARP Gusty Merrill*

5 A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING THE
 6 DEPARTMENT OF AGRICULTURE TO ESTABLISH A VOLUNTARY WASTE
 7 PESTICIDE REPORTING SYSTEM; DIRECTING THE DEPARTMENT TO
 8 DEVELOP A PROPOSED WASTE PESTICIDE DISPOSAL PROGRAM;
 9 AMENDING SECTION 80-8-102, MCA; AND PROVIDING AN EFFECTIVE
 10 DATE."

11 WHEREAS, Montana agricultural producers, government
 12 agencies, and citizens possess a substantial volume of waste
 13 pesticides that they cannot use in compliance with current
 14 regulatory requirements or are unable to beneficially use
 15 for a variety of other reasons; and

16 WHEREAS, all Montanans have an interest in providing for
 17 the proper disposal of waste pesticides for purposes of
 18 protecting public health and safety, ground water quality,
 19 and other resources.

20 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

21 **Section 1.** Section 80-8-102, MCA, is amended to read:

22 **"80-8-102. Definitions.** Unless the context requires
 23 otherwise, in this chapter the following definitions apply:

1 (1) "Active ingredient" means:

2 (a) in the case of a pesticide, other than a plant
 3 regulator, defoliant, or desiccant, an ingredient which will
 4 prevent, destroy, repel, alter life processes, or mitigate
 5 insects, nematodes, fungi, rodents, weeds, or other pests;

6 (b) in the case of a plant regulator, an ingredient
 7 which acts upon the physiology to accelerate or retard the
 8 rate of growth or rate of maturation or otherwise alter the
 9 normal processes of ornamental or crop plants or their
 10 produce;

11 (c) in the case of a defoliant, an ingredient which
 12 will cause the leaves or foliage to drop from a plant;

13 (d) in the case of a desiccant, an ingredient which
 14 will artificially accelerate the drying of plant tissue.

15 (2) "Adulterated" applies to a pesticide if its
 16 strength of purity falls below the professed standard or
 17 quality as expressed on labeling or under which it is sold
 18 or if any substance has been substituted wholly or in part
 19 for the pesticide or if any valuable constituent of the
 20 pesticide has been wholly or in part abstracted.

21 (3) "Antidote" means the most practical immediate
 22 treatment in case of poisoning and includes first-aid
 23 treatment.

24 (4) "Applicator" means a person who applies pesticides
 25 by any method.



1 (5) "Beneficial insects" means those insects which, in
2 the course of their life cycle, carry, transmit, or spread
3 pollen to and from vegetation, act as parasites and
4 predators on other insects, or are otherwise beneficial.

5 (6) "Commercial applicator" means a person who by
6 contract or for hire applies by aerial, ground, or hand
7 equipment pesticides to land, plants, seed, animals, waters,
8 structures, or vehicles.

9 (7) "Commercial operator" means a person who applies
10 pesticides under the supervision of a commercial applicator.

11 (8) "Crop" means a food intended for human or animal
12 consumption or a fiber product.

13 (9) "Dealer" means a person who sells, wholesales,
14 offers or exposes for sale, exchanges, barter, or gives
15 away within this state any pesticide except those pesticides
16 which are to be used for home, yard, garden, home orchard,
17 shade trees, ornamental trees, bushes, and lawn.

18 (10) "Defoliant" means a substance or mixture of
19 substances for causing the leaves or foliage to drop from a
20 plant, with or without causing abscission.

21 (11) "Desiccant" means a substance or mixture of
22 substances for artificially accelerating the drying of plant
23 tissue.

24 (12) "Device" means any instrument or contrivance
25 intended for destroying, controlling, repelling, or

1 mitigating pests but not equipment used for the application
2 of pesticides.

3 (13) "Environment" means the soil, air, water, plants,
4 and animals.

5 (14) "Equipment" means equipment used in the actual
6 application of pesticides, including aircraft, ground
7 sprayers and dusters, hand-held applicators, and water
8 surface equipment.

9 (15) "Farm applicator" means a person applying
10 pesticides to his own crops or land.

11 (16) "Fungi" means all nonchlorophyll-bearing
12 thallophytes (all nonchlorophyll-bearing plants of a lower
13 order than mosses and liverworts) as, for example, rusts,
14 smuts, mildews, molds, yeasts, and bacteria, except those
15 resident on or in living man or other animals.

16 (17) "Fungicide" means a substance or mixture of
17 substances for preventing, destroying, repelling, or
18 mitigating any fungus.

19 (18) "Herbicide" means a substance or mixture of
20 substances for preventing, destroying, repelling, or
21 mitigating any weed.

22 (19) "Inert ingredient" means an ingredient which is not
23 an active ingredient.

24 (20) "Ingredient statement" means either:

25 (a) a statement of the chemical name and common name

1 and percentage of each active ingredient, together with the
 2 total percentage of the inert ingredients, in the pesticide;
 3 or

4 (b) a statement of the chemical name and common name of
 5 each active ingredient, together with the name of each and
 6 total percentage of the inert ingredients, if any, in the
 7 pesticide. However, subsection (20)(a) of this section
 8 applies if the preparation is highly toxic to man,
 9 determined as provided in 80-8-105; and if the pesticide
 10 contains arsenic in any form, the ingredient statement shall
 11 also include a statement of the percentage of total and
 12 water-soluble arsenic, each calculated as elemental arsenic.

13 (21) "Insect" means any of the numerous small
 14 invertebrate animals generally having the body more or less
 15 obviously segmented, for the most part belonging to the
 16 class insecta, comprising six-legged, winged and wingless
 17 forms, such as beetles, bugs, wasps, flies, and keds, and to
 18 other classes of arthropods whose members are wingless and
 19 usually have more than six legs, such as spiders, mites,
 20 ticks, centipedes, and wood lice.

21 (22) "Insecticide" means any substance or mixture of
 22 substances for preventing, destroying, repelling, or
 23 mitigating any insects present in any environment.

24 (23) "Label" means the written, printed, or graphic
 25 matter on or attached to the pesticide or device or to its

1 immediate container and any outside container or wrapper of
 2 any retail package of the pesticide or device.

3 (24) "Labeling" means all labels and other written,
 4 printed, or graphic matter:

5 (a) upon the pesticide or device or any of its
 6 containers or wrappers;

7 (b) accompanying the pesticide or device at any time;

8 (c) to which reference is made on the label or in
 9 literature accompanying the pesticide or device, except when
 10 accurate, nonmisleading reference is made to current
 11 official publications of the United States environmental
 12 protection agency; departments of agriculture, interior, or
 13 health, education, and welfare; state experiment stations;
 14 state agricultural colleges; or other similar federal
 15 institutions or official agencies of this state or other
 16 states authorized by law to conduct research in the field of
 17 pesticides.

18 (25) "Misbranded" applies:

19 (a) to a pesticide or device if its labeling bears any
 20 statement, design, or graphic representation relative to its
 21 ingredients which is false or misleading;

22 (b) to a pesticide if:

23 (i) it is an imitation of or is offered for sale under
 24 the name of another pesticide;

25 (ii) its labeling bears any reference to registration

1 under this chapter;

2 (iii) the labeling accompanying it does not contain
3 instructions for use necessary and, if complied with,
4 adequate for the protection of the public;

5 (iv) the label does not contain a warning or caution
6 statement necessary and, if complied with, adequate to
7 prevent injury to living man or undue hazard to the
8 environment;

9 (v) the label of the retail package which is presented
10 or displayed under customary conditions of purchase does not
11 bear an ingredient statement on that part of the immediate
12 container and on the outside or on a wrapper through which
13 the ingredient statement on the immediate container cannot
14 be clearly read;

15 (vi) any word, statement, or other information required
16 to appear on the labeling is not prominently placed on the
17 labeling with a conspicuousness (as compared with other
18 words, statements, designs, or graphic matter in the
19 labeling) and in terms rendering it likely to be read and
20 understood by the ordinary individual under customary
21 conditions of purchase and use;

22 (vii) in the case of an insecticide, nematocide,
23 fungicide, or herbicide, when used as directed or in
24 accordance with commonly recognized practice, it is
25 injurious to living men or other vertebrate animals or

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

3 (viii) in the case of a plant regulator, defoliant, or
4 desiccant, when used as directed, it is injurious to man or
5 other vertebrate animals or vegetation to which it is
6 applied or to the person applying the pesticide. Physical or
7 physiological effects on plants or parts of plants are not
8 injurious when this is the purpose for which the plant
9 regulator, defoliant, or desiccant is applied in accordance
10 with the label claims and recommendations.

11 (26) "Nematocide" means any substance or mixture of
12 substances intended for preventing, destroying, repelling,
13 or mitigating nematodes.

14 (27) "Nematodes", "nemas", or "eelworms" means
15 invertebrate animals of the phylum nemathelminthes and class
16 nematoda, that is, unsegmented round worms with elongated,
17 fusiform, or sac-like bodies covered with cuticle and
18 inhabiting soil, water, animals, plants, or plant parts.

19 (28) "Person" means any natural person, individual,
20 firm, partnership, association, corporation, company,
21 joint-stock association, body politic, or organized group of
22 persons, whether incorporated or not, and any trustee,
23 receiver, assignee, or similar representative.

24 (29) "Pest" includes any insect, rodent, nematode,
25 snail, slug, weed, and any form of plant or animal life or

1 virus, except virus on or in living man or other animal,
2 which is normally considered a pest or which the department
3 declares a pest.

4 (30) "Pesticide" means any:

5 (a) substance or mixture of substances, including any
6 living organism or any product derived from a living
7 organism, intended for preventing, destroying, controlling,
8 repelling, altering life processes, or mitigating any
9 insects, rodents, nematodes, fungi, weeds, and other forms
10 of plant or animal life or viruses, except viruses on or in
11 living man or other animals, that may infect or be
12 detrimental to persons, vegetation, crops, animals,
13 structures, or households or be present in any environment
14 or which the department declares a pest;

15 (b) substance or mixture of substances intended for use
16 as a plant regulator, defoliant, or desiccant; and

17 (c) other substances intended for that use named by the
18 department by a rule adopted by it.

19 (31) "Plant regulator" means any substance or mixture of
20 substances affecting the rate of growth or rate of
21 maturation or for otherwise altering physiological condition
22 of plants but does not include substances to the extent that
23 they are intended as plant nutrients, trace elements,
24 nutritional chemicals, plant inoculants, and soil
25 amendments.

1 (32) "Public utility applicator" means a person applying
2 pesticides to land and structures owned or leased by a
3 public utility.

4 (33) "Registrant" means the person registering any
5 pesticide or device under the provisions of this chapter.

6 (34) "Restricted-use pesticide" means any pesticide,
7 including highly toxic pesticides, which the department has
8 found and determined, subsequent to a hearing, to be
9 injurious when used in accordance with registration, label,
10 directions, and cautions to persons, beneficial insects,
11 animals, crops, or the environment other than the pests it
12 is intended to prevent, destroy, control, or mitigate.

13 (35) "Retailer" means any person who sells, offers or
14 exposes for sale, exchanges, barter, or gives away within
15 this state any pesticide for home, yard, lawn, and garden
16 use, in quantities or concentrations as determined by the
17 department of agriculture.

18 (36) "Waste pesticide" means a pesticide:

19 (a) that may not be used legally because the
20 environmental protection agency or the department has
21 canceled or suspended the pesticide's registration or has
22 taken other administrative action to prohibit use of the
23 pesticide;

24 (b) that will not be used for reasons including but not
25 limited to product damage, toxicity, or obsolescence; or

1 (c) that cannot be disposed of in a legal or
2 economically feasible manner.

3 ~~{36}~~{37} "Weed" means any plant or part of the plant
4 which grows where not wanted."

5 NEW SECTION. Section 2. Voluntary waste pesticide
6 reporting system -- proposed program -- pesticide
7 information. (1) The department shall establish a voluntary
8 reporting system to encourage pesticide applicators and
9 other persons to report:

10 (a) the types and volume of waste pesticides in their
11 possession; and

12 (b) the county where the waste pesticides are stored.

13 (2) The department shall inventory the waste pesticide
14 information reported under subsection (1) and develop a
15 proposed waste pesticide disposal program for consideration
16 by the legislature in 1993.

17 (3) All waste pesticide information reported to the
18 department under subsection (1) is confidential. The
19 department may summarize the information for purposes of
20 preparing a waste pesticide inventory report that is public
21 information. If a waste pesticide disposal program is not
22 approved by the legislature in 1993, the department shall
23 destroy the waste pesticide information received under
24 subsection (1).

25 NEW SECTION. Section 3. Codification instruction.

1 [Section 2] is intended to be codified as an integral part
2 of Title 80, chapter 8, part 1, and the provisions of Title
3 80, chapter 8, part 1, apply to [section 2].

4 NEW SECTION. Section 4. Effective date. [This act] is
5 effective July 1, 1991.

-End-

1 SENATE BILL NO. 161

2 INTRODUCED BY WEEDING, YELLOWTAIL, T. BECK, GILBERT, HARP,

3 GRADY, DRISCOLL

4 BY REQUEST OF THE ENVIRONMENTAL QUALITY COUNCIL

5
6 A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING THE
7 DEPARTMENT OF AGRICULTURE TO ESTABLISH A VOLUNTARY WASTE
8 PESTICIDE REPORTING SYSTEM; DIRECTING THE DEPARTMENT TO
9 DEVELOP A PROPOSED WASTE PESTICIDE DISPOSAL PROGRAM;
10 AMENDING SECTION 80-8-102, MCA; AND PROVIDING AN EFFECTIVE
11 DATE."
12

13 WHEREAS, Montana agricultural producers, government
14 agencies, and citizens possess a substantial volume of waste
15 pesticides that they cannot use in compliance with current
16 regulatory requirements or are unable to beneficially use
17 for a variety of other reasons; and

18 WHEREAS, all Montanans have an interest in providing for
19 the proper disposal of waste pesticides for purposes of
20 protecting public health and safety, ground water quality,
21 and other resources.
22

23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

24 **Section 1.** Section 80-8-102, MCA, is amended to read:25 **"80-8-102. Definitions.** Unless the context requires

1 otherwise, in this chapter the following definitions apply:

2 (1) "Active ingredient" means:

3 (a) in the case of a pesticide, other than a plant
4 regulator, defoliant, or desiccant, an ingredient which will
5 prevent, destroy, repel, alter life processes, or mitigate
6 insects, nematodes, fungi, rodents, weeds, or other pests;

7 (b) in the case of a plant regulator, an ingredient
8 which acts upon the physiology to accelerate or retard the
9 rate of growth or rate of maturation or otherwise alter the
10 normal processes of ornamental or crop plants or their
11 produce;

12 (c) in the case of a defoliant, an ingredient which
13 will cause the leaves or foliage to drop from a plant;

14 (d) in the case of a desiccant, an ingredient which
15 will artificially accelerate the drying of plant tissue.

16 (2) "Adulterated" applies to a pesticide if its
17 strength of purity falls below the professed standard or
18 quality as expressed on labeling or under which it is sold
19 or if any substance has been substituted wholly or in part
20 for the pesticide or if any valuable constituent of the
21 pesticide has been wholly or in part abstracted.

22 (3) "Antidote" means the most practical immediate
23 treatment in case of poisoning and includes first-aid
24 treatment.

25 (4) "Applicator" means a person who applies pesticides

REFERENCE BILL

1 by any method.

2 (5) "Beneficial insects" means those insects which, in
3 the course of their life cycle, carry, transmit, or spread
4 pollen to and from vegetation, act as parasites and
5 predators on other insects, or are otherwise beneficial.

6 (6) "Commercial applicator" means a person who by
7 contract or for hire applies by aerial, ground, or hand
8 equipment pesticides to land, plants, seed, animals, waters,
9 structures, or vehicles.

10 (7) "Commercial operator" means a person who applies
11 pesticides under the supervision of a commercial applicator.

12 (8) "Crop" means a food intended for human or animal
13 consumption or a fiber product.

14 (9) "Dealer" means a person who sells, wholesales,
15 offers or exposes for sale, exchanges, barter, or gives
16 away within this state any pesticide except those pesticides
17 which are to be used for home, yard, garden, home orchard,
18 shade trees, ornamental trees, bushes, and lawn.

19 (10) "Defoliant" means a substance or mixture of
20 substances for causing the leaves or foliage to drop from a
21 plant, with or without causing abscission.

22 (11) "Desiccant" means a substance or mixture of
23 substances for artificially accelerating the drying of plant
24 tissue.

25 (12) "Device" means any instrument or contrivance

1 intended for destroying, controlling, repelling, or
2 mitigating pests but not equipment used for the application
3 of pesticides.

4 (13) "Environment" means the soil, air, water, plants,
5 and animals.

6 (14) "Equipment" means equipment used in the actual
7 application of pesticides, including aircraft, ground
8 sprayers and dusters, hand-held applicators, and water
9 surface equipment.

10 (15) "Farm applicator" means a person applying
11 pesticides to his own crops or land.

12 (16) "Fungi" means all nonchlorophyll-bearing
13 thallophytes (all nonchlorophyll-bearing plants of a lower
14 order than mosses and liverworts) as, for example, rusts,
15 smuts, mildews, molds, yeasts, and bacteria, except those
16 resident on or in living man or other animals.

17 (17) "Fungicide" means a substance or mixture of
18 substances for preventing, destroying, repelling, or
19 mitigating any fungus.

20 (18) "Herbicide" means a substance or mixture of
21 substances for preventing, destroying, repelling, or
22 mitigating any weed.

23 (19) "Inert ingredient" means an ingredient which is not
24 an active ingredient.

25 (20) "Ingredient statement" means either:

1 (a) a statement of the chemical name and common name
2 and percentage of each active ingredient, together with the
3 total percentage of the inert ingredients, in the pesticide;
4 or

5 (b) a statement of the chemical name and common name of
6 each active ingredient, together with the name of each and
7 total percentage of the inert ingredients, if any, in the
8 pesticide. However, subsection (20)(a) of this section
9 applies if the preparation is highly toxic to man,
10 determined as provided in 80-8-105; and if the pesticide
11 contains arsenic in any form, the ingredient statement shall
12 also include a statement of the percentage of total and
13 water-soluble arsenic, each calculated as elemental arsenic.

14 (21) "Insect" means any of the numerous small
15 invertebrate animals generally having the body more or less
16 obviously segmented, for the most part belonging to the
17 class insecta, comprising six-legged, winged and wingless
18 forms, such as beetles, bugs, wasps, flies, and keds, and to
19 other classes of arthropods whose members are wingless and
20 usually have more than six legs, such as spiders, mites,
21 ticks, centipedes, and wood lice.

22 (22) "Insecticide" means any substance or mixture of
23 substances for preventing, destroying, repelling, or
24 mitigating any insects present in any environment.

25 (23) "Label" means the written, printed, or graphic

1 matter on or attached to the pesticide or device or to its
2 immediate container and any outside container or wrapper of
3 any retail package of the pesticide or device.

4 (24) "Labeling" means all labels and other written,
5 printed, or graphic matter:

6 (a) upon the pesticide or device or any of its
7 containers or wrappers;

8 (b) accompanying the pesticide or device at any time;

9 (c) to which reference is made on the label or in
10 literature accompanying the pesticide or device, except when
11 accurate, nonmisleading reference is made to current
12 official publications of the United States environmental
13 protection agency; departments of agriculture, interior, or
14 health, education, and welfare; state experiment stations;
15 state agricultural colleges; or other similar federal
16 institutions or official agencies of this state or other
17 states authorized by law to conduct research in the field of
18 pesticides.

19 (25) "Misbranded" applies:

20 (a) to a pesticide or device if its labeling bears any
21 statement, design, or graphic representation relative to its
22 ingredients which is false or misleading;

23 (b) to a pesticide if:

24 (i) it is an imitation of or is offered for sale under
25 the name of another pesticide;

1 (ii) its labeling bears any reference to registration
2 under this chapter;

3 (iii) the labeling accompanying it does not contain
4 instructions for use necessary and, if complied with,
5 adequate for the protection of the public;

6 (iv) the label does not contain a warning or caution
7 statement necessary and, if complied with, adequate to
8 prevent injury to living man or undue hazard to the
9 environment;

10 (v) the label of the retail package which is presented
11 or displayed under customary conditions of purchase does not
12 bear an ingredient statement on that part of the immediate
13 container and on the outside or on a wrapper through which
14 the ingredient statement on the immediate container cannot
15 be clearly read;

16 (vi) any word, statement, or other information required
17 to appear on the labeling is not prominently placed on the
18 labeling with a conspicuousness (as compared with other
19 words, statements, designs, or graphic matter in the
20 labeling) and in terms rendering it likely to be read and
21 understood by the ordinary individual under customary
22 conditions of purchase and use;

23 (vii) in the case of an insecticide, nematocide,
24 fungicide, or herbicide, when used as directed or in
25 accordance with commonly recognized practice, it is

1 injurious to living men or other vertebrate animals or
2 vegetation, except weeds, to which it is applied or to the
3 person applying the pesticide;

4 (viii) in the case of a plant regulator, defoliant, or
5 desiccant, when used as directed, it is injurious to man or
6 other vertebrate animals or vegetation to which it is
7 applied or to the person applying the pesticide. Physical or
8 physiological effects on plants or parts of plants are not
9 injurious when this is the purpose for which the plant
10 regulator, defoliant, or desiccant is applied in accordance
11 with the label claims and recommendations.

12 (26) "Nematocide" means any substance or mixture of
13 substances intended for preventing, destroying, repelling,
14 or mitigating nematodes.

15 (27) "Nematodes", "nemas", or "eelworms" means
16 invertebrate animals of the phylum nemathelminthes and class
17 nematoda, that is, unsegmented round worms with elongated,
18 fusiform, or sac-like bodies covered with cuticle and
19 inhabiting soil, water, animals, plants, or plant parts.

20 (28) "Person" means any natural person, individual,
21 firm, partnership, association, corporation, company,
22 joint-stock association, body politic, or organized group of
23 persons, whether incorporated or not, and any trustee,
24 receiver, assignee, or similar representative.

25 (29) "Pest" includes any insect, rodent, nematode,

1 snail, slug, weed, and any form of plant or animal life or
 2 virus, except virus on or in living man or other animal,
 3 which is normally considered a pest or which the department
 4 declares a pest.

5 (30) "Pesticide" means any:

6 (a) substance or mixture of substances, including any
 7 living organism or any product derived from a living
 8 organism, intended for preventing, destroying, controlling,
 9 repelling, altering life processes, or mitigating any
 10 insects, rodents, nematodes, fungi, weeds, and other forms
 11 of plant or animal life or viruses, except viruses on or in
 12 living man or other animals, that may infect or be
 13 detrimental to persons, vegetation, crops, animals,
 14 structures, or households or be present in any environment
 15 or which the department declares a pest;

16 (b) substance or mixture of substances intended for use
 17 as a plant regulator, defoliant, or desiccant; and

18 (c) other substances intended for that use named by the
 19 department by a rule adopted by it.

20 (31) "Plant regulator" means any substance or mixture of
 21 substances affecting the rate of growth or rate of
 22 maturation or for otherwise altering physiological condition
 23 of plants but does not include substances to the extent that
 24 they are intended as plant nutrients, trace elements,
 25 nutritional chemicals, plant inoculants, and soil

1 amendments.

2 (32) "Public utility applicator" means a person applying
 3 pesticides to land and structures owned or leased by a
 4 public utility.

5 (33) "Registrant" means the person registering any
 6 pesticide or device under the provisions of this chapter.

7 (34) "Restricted-use pesticide" means any pesticide,
 8 including highly toxic pesticides, which the department has
 9 found and determined, subsequent to a hearing, to be
 10 injurious when used in accordance with registration, label,
 11 directions, and cautions to persons, beneficial insects,
 12 animals, crops, or the environment other than the pests it
 13 is intended to prevent, destroy, control, or mitigate.

14 (35) "Retailer" means any person who sells, offers or
 15 exposes for sale, exchanges, barters, or gives away within
 16 this state any pesticide for home, yard, lawn, and garden
 17 use, in quantities or concentrations as determined by the
 18 department of agriculture.

19 (36) "Waste pesticide" means a pesticide:

20 (a) that may not be used legally because the
 21 environmental protection agency or the department has
 22 canceled or suspended the pesticide's registration or has
 23 taken other administrative action to prohibit use of the
 24 pesticide;

25 (b) that will not be used for reasons including but not

1 limited to product damage, toxicity, or obsolescence; or
 2 (c) that cannot be disposed of in a legal or
 3 economically feasible manner.

4 {36}{37} "Weed" means any plant or part of the plant
 5 which grows where not wanted."

6 NEW SECTION. Section 2. Voluntary waste pesticide
 7 reporting system -- proposed program -- pesticide
 8 information. (1) The department shall establish a voluntary
 9 reporting system to encourage pesticide applicators and
 10 other persons to report:

11 (a) the types and volume of waste pesticides in their
 12 possession; and

13 (b) the county where the waste pesticides are stored.

14 (2) The department shall inventory the waste pesticide
 15 information reported under subsection (1) and develop a
 16 proposed waste pesticide disposal program for consideration
 17 by the legislature in 1993.

18 (3) All waste pesticide information reported to the
 19 department under subsection (1) is confidential. The
 20 department may summarize the information for purposes of
 21 preparing a waste pesticide inventory report that is public
 22 information. If a waste pesticide disposal program is not
 23 approved by the legislature in 1993, the department shall
 24 destroy the waste pesticide information received under
 25 subsection (1).

1 NEW SECTION. Section 3. Codification instruction.

2 [Section 2] is intended to be codified as an integral part
 3 of Title 80, chapter 8, part 1, and the provisions of Title
 4 80, chapter 8, part 1, apply to [section 2].

5 NEW SECTION. Section 4. Effective date. [This act] is
 6 effective July 1, 1991.

-End-