

#### **217.544 Definitions for chapter.**

As used in this chapter, unless the context requires otherwise:

- (1) "Active ingredient" means any ingredient which will prevent, destroy, repel, control, or mitigate pests, or which will act as a plant regulator, defoliant, or desiccant, or as a functioning agent in a spray adjuvant;
- (2) "Adulterated" shall apply to any pesticide if its strength or purity falls below the professed standard or quality as expressed on its labeling or under which it is sold, or if any substance has been substituted wholly or in part for the pesticide, or if any valuable constituent of the pesticide has been wholly or in part abstracted;
- (3) "Animal" means all vertebrate and invertebrate species, including but not limited to man and other mammals, birds, fish, and shellfish;
- (4) "Antidote" means the most practical immediate treatment in case of poisoning and includes first-aid treatment;
- (5) "Board" means the Pesticide Advisory Board;
- (6) "Defoliant" means any substance or mixture of substances intended to cause the leaves or foliage to drop from a plant, with or without causing abscission;
- (7) "Desiccant" means any substance or mixture of substances intended to artificially accelerate the drying of plant tissue;
- (8) "Device" means any instrument or contrivance other than a firearm which is intended for trapping, destroying, repelling, or mitigating any pest or any other form of plant or animal life other than man and other bacteria, virus, or other microorganisms on or in living man or other living animals; but not including equipment used for the application of pesticides when sold separately therefrom;
- (9) "Distribute" means to offer for sale, hold for sale, sell, barter, ship, deliver for shipment, or receive and, having received, deliver or offer to deliver pesticides in this state;
- (10) "Environment" includes water, air, land, and all plants and man and other animals living therein and the interrelationships which exist among these;
- (11) "EPA" means the United States Environmental Protection Agency;
- (12) "FIFRA" means the Federal Insecticide, Fungicide and Rodenticide Act as amended;
- (13) "Fungi" means all nonchlorophyll-bearing thallophytes; that is, all nonchlorophyll-bearing plants of a lower order than mosses and liverworts, as for example, rusts, smuts, mildews, molds, yeasts, bacteria, and viruses, except those on or in living man or other living animals, and except those in or on processed food, beverages, or pharmaceuticals;
- (14) "Highly toxic pesticide" means any pesticide determined to be highly toxic under the authority of sec. 25(c)(2) of FIFRA or by the department under this chapter;
- (15) "Imminent hazard" means a situation which exists when the continued use of a pesticide would likely result in unreasonable adverse effects on the environment or will involve unreasonable hazard to the survival of a species declared endangered by the secretary of the United States Department of Interior under Pub. L. 91-135 of

the United States Congress;

- (16) "Inert ingredient" means an ingredient which is not an active ingredient;
- (17) "Ingredient statement" means a statement of the name and percentage of each active ingredient together with the total percentage of the inert ingredients in the pesticide and, when the pesticide contains arsenic in any form, a statement of the percentage of total and water-soluble arsenic, each stated as elemental arsenic;
- (18) "Insect" means any of the numerous small invertebrate animals generally having the body more or less obviously segmented, for the most part belonging to the class insecta, comprising six (6) legged, usually winged forms, as for example, beetles, bugs, bees, flies, and to other allied classes of arthropods whose members are wingless and usually have more than six (6) legs, as, for example, spiders, mites, ticks, centipedes, and wood lice, also nematodes and other invertebrates which are destructive, constitute a liability, and may be classed as pests;
- (19) "Label" means the written, printed, or graphic matter on, or attached to, the pesticide or device, or to any of its containers or wrappers;
- (20) "Labeling" means the label and other written, printed, or graphic matter:
  - (a) On the pesticide or device, or any of its containers or wrappers;
  - (b) Accompanying the pesticide or device at any time or referring to it in any other media used to disseminate information to the public; and
  - (c) To which reference is made on the label or in the literature accompanying the pesticide or device, except when accurate nonmisleading reference is made to current official publications of the United States Environmental Protection Agency, the Departments of Agriculture and Interior, the Department of Health, Education and Welfare, and other similar federal institutions, the College of Agriculture, University of Kentucky, Kentucky Agricultural Experiment Station, Cabinet for Health and Family Services, Energy and Environment Cabinet, or other agencies of this state or other states when such agencies are authorized by law to conduct research in the field of pesticides;
- (21) "Land" means all land and water areas, including air space and all plants, animals, structures, buildings, contrivances, and machinery appurtenant thereto, or situated thereon, fixed or mobile, including any used for transportation;
- (22) "Misbranded" means a pesticide is misbranded if:
  - (a) Its labeling bears any statement, design, or graphic representation relative thereto or to its ingredients which is false or misleading in any particular;
  - (b) It is an imitation of or is distributed under the name of another pesticide;
  - (c) The labeling accompanying it does not contain directions for use which are necessary for effecting the purpose for which the product is intended and, if complied with, together with any requirements imposed under section 3(d) of FIFRA are adequate to protect health and the environment;
  - (d) The labeling does not contain a statement of the use classification under which the product is registered by EPA;
  - (e) The label does not contain a warning or caution statement which may be

necessary and if complied with, together with any requirements imposed under section 3(d) of FIFRA, is adequate to protect health and the environment;

- (f) The label does not bear an ingredient statement on that part of the immediate container, and on the outside container or wrapper, if there be one, through which the ingredient statement on the immediate container cannot be clearly read, of the retail package which is presented or displayed under customary conditions of the purchase; provided, that the ingredient statement may appear prominently on another part of the container pursuant to section 2(q) 2(A) (i) (ii) of FIFRA if the size and form of the container makes it impractical to place it on that part of the retail package which is presented or displayed under customary conditions of purchase;
  - (g) Any word, statement, or other information required by KRS 217.542 to 217.630 or FIFRA to appear on the label or labeling is not prominently placed thereon with such conspicuousness, as compared to other words, statements, designs, or graphic matter in the labeling, and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use;
  - (h) The label does not bear the name, brand, or trademark under which the pesticide is distributed;
  - (i) The label does not bear the net weight or measure of the content;
  - (j) The label does not bear the name and address of the manufacturer, registrant, or person for whom manufactured; and
  - (k) The label does not bear the EPA registration number assigned to each establishment in which the product is produced and the EPA number assigned to the pesticide, if required by regulation under FIFRA;
- (23) "Nematode" means invertebrate animals of the phylum nemathelminthes and class nematoda, that is, unsegmented round worms with elongated, fusiform, or sac-like bodies covered with cuticle, and inhabiting soil, water, plants or plant parts; may also be called nemas or eelworms;
- (24) "Person" means any individual, partnership, association, or any organized group of persons whether incorporated or not;
- (25) "Pest" means any insect, snail, slug, rodent, nematode, fungus, weed, and any other form of plant or animal life, or virus, bacteria, or other microorganism, except viruses, bacteria, or other microorganisms on or in living man or other living animals, which is normally considered to be a pest, or which the department may declare to be a pest;
- (26) "Pesticide" means any substance or mixture of substances intended to prevent, destroy, control, repel, attract, or mitigate any pest; any substance or mixture of substances intended to be used as a plant regulator, defoliant, or desiccant; and any substance or mixture of substances intended to be used as a spray adjuvant;
- (27) "Plant regulator" means any substance or mixture of substances, intended through physiological actions, to accelerate or retard the rate of growth or maturation, or to

otherwise alter the behavior of plants, but shall not include substances insofar as they are intended to be used as plant nutrients, trace elements, nutritional chemicals, plant inoculants, or soil amendments;

- (28) "Protect health and the environment" means protection against any unreasonable adverse effects on the environment;
- (29) "Registrant" means a person who has registered any pesticide pursuant to the provisions of KRS 217.542 to 217.630;
- (30) "Restricted-use pesticide" means any pesticide classified for restricted use by the administrator, EPA, or by regulation of the department;
- (31) "Spray adjuvant" means any wetting agent, spreading agent, sticker, deposit builder, adhesive, emulsifying agent, deflocculating agent, water modifier, or similar agent intended to be used with any other pesticide as an aid to the application or to the effect thereof, and which is in a package or container separate from that of the other pesticide with which it is to be used;
- (32) "Unreasonable adverse effects on the environment" means any unreasonable risk to man or the environment, taking into account the economic, social, and environmental costs and benefits of the use of any pesticide;
- (33) "Weed" means any plant which grows where not wanted; and
- (34) "Wildlife" means all living things that are neither human, domesticated, nor as defined in KRS 217.542 to 217.630, pests, including but not limited to mammals, birds, and aquatic life.

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