

# LEGISLATION AND REGULATIONS

## Ground and aerial application of 2, 4-D prohibited in seven Texas counties

**F**OLLOWING A SERIES OF four recent hearings, the Commissioner of Agriculture has issued a second amendment on March 24 to herbicide regulations which have been in effect since September 1, 1953. This new amendment prohibits the sale and use of high volatility herbicides in Liberty, Chambers, Harris, Fort Bend, Brazoria, Wharton, and Matagorda counties.

Specifically, he has prohibited the use of 2,4-D by aircraft, ground equipment, or any other means in all of these counties. All other herbicide compounds applied in these counties are to be used in strict compliance with the rules and regulations of the Texas Department of Agriculture. Every custom applicator in these counties, although covered by a blanket permit, must be approved personally by a representative of the Texas Department of Agriculture at the beginning of each application.

In addition, aerial application of all herbicides has been prohibited in certain areas of four counties.

### **Cotton and Rice**

To best understand the reasons for this action, one must examine the history of complaints arising between the cotton and rice farmers over the use of 2,4-D. Damage claims reached an all time high of 1054 in 1951-52. The 1952-53 season was much better, for claims had dropped down to only 239. Only through better understanding of the potency of these compounds and by more supervision had the tremendous decrease been affected. And there is no way of estimating how many cries of protest by cotton farmers were muffled by the fact that it is almost if not impossible to point the finger at the violator. With ground application it is relatively easy to determine who is at fault, but aerial drift is much more difficult to prove.

Early this year the Commissioner of Agriculture called for a series of four hearings, the first in Liberty county on February 8. The commissioner ordered a hearing for Fort Bend, Harris, and Brazoria counties on March 4. This was followed by a hearing on March 5 for Wharton county. The series finally wound up on March 12 with the Matagorda county hearing. Careful records were kept at these hearings presided over by the Deputy Commissioner of Agriculture, assisted by the Chief and Assistant Chief of the State Plant Quarantine

Division. Some of these hearings drew audiences of almost 1000 people.

The general tone of these meetings seemed to be one of a harmonious understanding of each party's problems. As stated by Walter Lalley, president of the Texas Cotton Association, "I was most favorably impressed with the friendly spirit of the rice farmers, and I think they will do everything in their power to get the problem corrected. And I think maybe the cotton farmers gave them a surprise. We told them we do not object to the use of herbicides in rice fields if they are distributed by means other than airplanes. It is the airplane we object to, because we feel that the poison drifts for long distances and brings ruin to cotton farms." For the most part, cotton farmers didn't urge a complete ban on the use of 2,4-D, but suggested that it be restricted to ground application so that accurate damage checks could be maintained. The State Department of Agriculture believes that rigid enforcement of the present regulations is the best way to materially reduce the number of claims.

### **Looking Back**

The State of Texas has taken considerable action during the past year to make its laws more rigid. The law as it now stands is believed to provide a more effective and efficient operating framework. House Bill No. 402 which went into effect last September 1 assigned joint responsibility of the crop owner and the custom applicator to see that spraying was done properly. The old law, House Bill No. 593, approved by the governor on June 4, 1951, has no such provision. Custom applicators formerly posted two or more bonds, a surety bond in the amount of \$5000, plus equipment bonds in the amount of \$1000 per each piece of equipment licensed. Today the applicator posts only one bond, but the price is much higher. He must provide \$20,000 surety plus \$2000 for each piece of equipment. These bonds expire every year to cut down the possibility of accumulated claims, and must be posted each year prior to issuance of permits. In lieu of a bond, crop damage insurance in the same amount, approved by the commissioner, may be issued.

Aircraft equipment inspections previously were conducted only once a year at a cost of \$10.00 to the applicator. Now the inspection period has been shortened

to every 30 days when equipment is installed upon the aircraft; the cost is still the same as before, \$10 per inspection. Persons selling herbicides in 8-ounce containers or smaller were once considered dealers. They were required to keep sales records even though they were exempted from paying license fees. These sellers are no longer considered to be dealers; they do not have to keep records or buy a license.

The new law empowers the commissioner to exempt, regulate, or prohibit the use of herbicides, and in general, exercise such policies as he deems necessary for the enforcement of the law.

Penalties also are stronger. Under the previous law, violators could be fined from \$100 to \$2000 with forfeiture of license and permits. The fine is still the same, but a 30-day jail sentence can be added, although there is no provision for forfeiture of licenses and permits. It still costs the same for an application permit—10 cents per acre for all acreage over 10 acres. Under the old law all persons spraying between 5 and 20 acres had to give notice to the commissioner of their intention to spray, and charges began at the 20-acre level. Today, all applicators except those applying to lawns must give notice, even where permits are not required, and the charge is now levied at the 10-acre level.

In cases where equipment is rented or leased to one other than the person in whose name the inspection was made, a notarized statement of responsibility bearing both signatures must be filed with the State Department of Agriculture by the person renting or leasing the equipment, and this must be done prior to application of the herbicide. This situation hadn't been previously covered.

A violation of the herbicide regulations issued by the commissioner is now a violation of the law, consequently there is no separate provision setting penalties for violation of the regulations. This was not clearly specified in the old law, therefore forfeiture of permits and licenses for a period of one year was specified in Regulation III of House Bill 593.

Under the new law the commissioner has issued Herbicide Regulation No. I, effective September 1, 1953. This regulation had a minor amendment (Amendment No. I) which was effective the same date. Both of these documents clearly specify the terms for sale, licensing, and application of hormone type herbicides. It was Amendment No. II which spelled doom on March 24 for 2,4-D in the seven Coastal Bend counties.