RE-EVALUATION OF THE FIFRA SECTION 24(c) REVIEW PROCESS FOR STATE REGISTRATIONS THAT ARE MORE RESTRICTIVE THAN THE FEDERAL REGISTRATION

ISSUE

- Section 24(c) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) states that "*A state may provide registration for* ***additional uses*** *of federally registered pesticides formulated for distribution and use within that State to meet special local needs [SLN]...*"
- In practice, this provision enables states to expand a label by, for instance, adding a localized pest species or special application timing to accommodate the needs of state growers.
- EPA currently receives approximately 300 notifications of section 24(c) registrations annually. The majority of these 24(c) registrations are for additional uses not authorized by the EPA-approved label, which clearly fall within the scope of FIFRA section 24(c).
- Occasionally, however, rather than providing for state registration of ***additional uses*** not included on the EPA-approved label, some states issue section 24(c) registrations that are more narrow than the EPA-approved label, for example, adding a more restrictive application cut-off date, adding training and certification requirements, or limiting the number of treatments permitted by the EPA-approved label. This has the effect of undermining the federal label (see Background, below).

ACTION

- Ex. 5 Deliberative Process (DP)

KEY POINTS

- Ex. 5 Deliberative Process (DP)

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COMMUNICATIONS/OUTREACH PLANS

Ex. 5 Deliberative Process (DP)

BACKGROUND

- Many 24(c) registrations are for additional uses not authorized by the EPA-approved label, for example, applying the pesticide to a different crop (provided a tolerance exists for that crop) to address an outbreak of disease, adding an alternative application method that suits the practices of that state, or adding a new pest species that is not on the EPA-approved label.
- Nothing in Section 24(c) indicates that a state may place restrictions on a federally approved label. Section 24(a), however, provides states with the ability to place restrictions that exceed the federally approved label: [a] "State may regulate the sale or use of any federally registered pesticide or device in the State, but only if and to the extent the regulation does not permit any sale or use prohibited by this Act." Although EPA is not formally part of the FIFRA section 24(a) process, the Agency is aware of examples where states have used this approach to impose additional restrictions to an EPA-approved label.
- For at least the past ten years, EPA has generally allowed 24(c) registrations with more restrictions than the EPA-approved label.
- In a response to an EPA Q&A document (available online) as to whether states could "use Section 24(c) to impose more restrictive measures than are on a section 3 label?" -- EPA states that "[y]es, under certain circumstances states may impose more restrictive measures than are on section 3 labels, or limit use to a subset of uses on section 3 labels. OCSPP will revise the Q&A document after we consider public comments on the 24(c) comment document.