More Restrictive States Pesticide Registrations
Issued under FIFRA Section 24(c)
Situational Awareness

Current Approach. For 25 years, EPA has acquiesced to states using Section 24(c) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) to further restrict EPA-approved pesticide registrations - rather than to include additional uses to meet special local needs - by not disapproving these states requests within the 90-day review period. Without EPA action within the 90-day period, these requests become federal labels and remain in effect in perpetuity unless they are time-limited or subsequently canceled by the state, registrant or the Agency.

Forward Approach and Process. The appropriate provision to restrict a federal registration is FIFRA Section 24(a), which allows states to exercise relevant authority under state law. In the alternative, states can work with EPA and the registrants to add state-specific language to EPA-approved labels to achieve needed restrictions.[1]

The 2019 website notice stated that EPA was re-evaluating its approach to reviewing FIFRA Section 24(c) registration requests and the circumstances under which it will exercise its authority to disapprove those requests, and that the Agency would take public comment before making any changes. Following legal review, however, the Office of General Counsel determined that taking public comment is unnecessary (given the plain language of the statute).

If EPA intends to disapprove a Section 24(c) registration request, the following steps must occur:[2]

- The Administrator must first notify the state of EPA's intention to disapprove the request and of the reasons for disapproval.
- The notice of intent must provide the state at least 10 days to respond and consult with the Agency and take corrective action to resolve the issue.
- In reaching a final decision, the Agency will consider information provided by the registering state in response to the notice of intent to disapprove the Section 24(c) registration.
- After reviewing the information provided by the state, if the Administrator decides to proceed with the disapproval, the state must be notified in writing by the Administrator on or before the 90th day.

Key Points.

Ex. 5 Deliberative Process (DP)

[1] For example, states may work with EPA and registrants to include state-specific directions for use on federally approved labels; however, these amended labels generally require evaluation of additional data by the Agency and, unlike Section 24(c) registrations, are not in effect on the day of submission.
[2] See 40 C.F.R. § 162.154.

Ex. 5 Deliberative Process (DP)

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[3] See April 5, 2019 letter from the National Association of State Departments of Agriculture (NASDA); July 9, 2019 letter from Secretary Kim Vanneman of the South Dakota Department of Agriculture (SSDA).
[4] EPA's guidance on FIFRA Section 24(c) registrations is available at [HYPERLINK "https://www.epa.gov/pesticide-registration/guidance-fifra-24c-registrations"].
[5] See 40 C.F.R § 162.153(e)(5).