Message

From: Keigwin, Richard [Keigwin.Richard@epa.gov]
Sent: 3/13/2019 11:18:20 AM
To: Messina, Edward [Messina.Edward@epa.gov]
Subject: Fwd: State Restrictions on Federal Pesticide Labels Under Scrutiny

Will need you to be involved in this when it gets scheduled.

Rick Keigwin
Director, Office of Pesticide Programs
U.S. Environmental Protection Agency
Phone: 703-305-7090
Website: www.epa.gov/pesticides
Sent from my iPhone

Begin forwarded message:

> **From:** "Beck, Nancy" <Beck.Nancy@epa.gov>
> **Date:** March 13, 2019 at 7:09:16 AM EDT
> **To:** "Dunn, Alexandra" <dunn.alexandra@epa.gov>
> **Cc:** "Baptist, Erik" <Baptist.Erik@epa.gov>, "Bertrand, Charlotte" <Bertrand.Charlotte@epa.gov>, "Keigwin, Richard" <Keigwin.Richard@epa.gov>, "Bolen, Derrick" <bolen.derrick@epa.gov>
> **Subject: Re: State Restrictions on Federal Pesticide Labels Under Scrutiny**
>
> Looping in Derrick to find a window.
>
> **********
> Nancy B. Beck, Ph.D., DABT
> Principal Deputy Assistant Administrator
> Office of Chemical Safety and Pollution Prevention
> P: 202-564-1273
> beck.nancy@epa.gov
>
> On Mar 13, 2019, at 4:58 AM, Dunn, Alexandra <dunn.alexandra@epa.gov> wrote:
>
>> Let's discuss today Ex. 5 Attorney Client (AC)
>> Ex. 5 Attorney Client (AC)
>>
>> Alexandra Dapolito Dunn, Esq.
>> Assistant Administrator
>> Office of Chemical Safety & Pollution Prevention
>> U.S. Environmental Protection Agency
>> Washington, DC
>>
>> Sent from my iPhone
>>
>> Begin forwarded message:

https://www.dtnpf.com/agriculture/web/ag/news/crops/article/2018/11/01/state-restrictions-federal-pesticide

State Restrictions on Federal Pesticide Labels Under Scrutiny

Emily Unglesbee11/1/2018 | 6:30 PM CDT

EPA has told state regulators that using Section 24(c) of FIFRA to add restrictions to federal pesticide labels, like dicamba, may not be in line with the law's language. (DTN photo by Pamela Smith)

ROCKVILLE, Md. (DTN) -- EPA's announcement of new dicamba regulations comes at a time when states' ability to restrict this kind of federal pesticide label may be under threat.

In the past, states have used section 24(c) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), to pass more restrictive state regulations on federal pesticide labels. For example, the state of Tennessee used Section 24(c) to limit the use of three dicamba herbicides to 7:30 a.m. to 5:30 p.m. in the state in 2018 -- even though the federal dicamba label only limited use from sunrise to sunset.

That practice may no longer be routine, because EPA is worried that the FIFRA language does not actually support it, state pesticide regulators told DTN.

"What we've heard is that the purpose of Section 24(c) is to allow additional uses of a federal pesticide, as opposed to restrict uses," said Leo Reed, American Association of Pesticide Control Officials (AAPCO) board director from Indiana. "And states have been using it to restrict federal labels, and EPA is leery of continuing that process."

EPA told DTN in an emailed statement that it will try to support states if they want to use 24(c) in 2019: "EPA recognizes and supports the important authority given to states under FIFRA section 24(c) to issue special local needs registrations. If a state wishes to modify the over-the-top labels for dicamba in order to better meet their state's circumstances, EPA will work with them to support their goals."

However, North Dakota State University pesticide program specialist Andrew Thostenson, and Reed, told DTN that, during weekly calls between the agency and state regulators that occurred during the summer of 2018, EPA expressed concerns about states doing just this. The calls were meant to keep EPA informed about dicamba injury complaints and problems that states were dealing with, Reed and Thostenson said.