

DfE Registration - SLA Response

What state lead agency (SLA) do you represent?	
Answer Options	Response Count
	33
<i>answered question</i>	33
<i>skipped question</i>	0

Responses

North Dakota
Iowa Department of Agriculture & Land Stewardship
Florida Department of Agriculture & Consumer Services
Mississippi
Minnesota
Missouri Department of Agriculture
California Department of Pesticide Regulation
Kansas
New Hampshire
Washington WSDA
Texas Department of Agriculture
New York State
Alabama
CT
Vermont
TN
New Mexico Department of Agriculture
Oregon Department of Agriculture
North Carolina Dept. of Ag. and Consumer Services
Virginia Department of Agriculture and Consumer Services
Colorado Dept of Agriculture
Oklahoma
CNMI Bureau of Environmental and Coastal Quality
Nevada
Nebraska
Arizona
Utah
Delaware Department of Agriculture
District of Columbia
Michigan
Wyoming
Pennsylvania
Office of Indiana State Chemist

DfE Registration - SLA Response

After reading EPA's legal analysis of the Design for the Environment (DfE) Pilot, does your state view the DfE logo as		
Answer Options	Response Percent	Response Count
Yes	33.3%	11
No	39.4%	13
Other (please specify)	27.3%	9
<i>answered question</i>		33
<i>skipped question</i>		0

Other (please specify)

Notwithstanding FIFRA Sections 2 & 12 and examples in 40 CFR, we believe DfE could be misleading to the public.

We have not yet reached a final decision, and note that OGC's determination is limited to use of the dfe logo for pilot testing only..

Although we support the program, regardless of education/outreach efforts, there will be a certain part of the population that will interpret the logo as "without hazard"; and also people who will compare to products without the logo as not as safe as products with the logo.

yes, if on 25b's or adjuvants

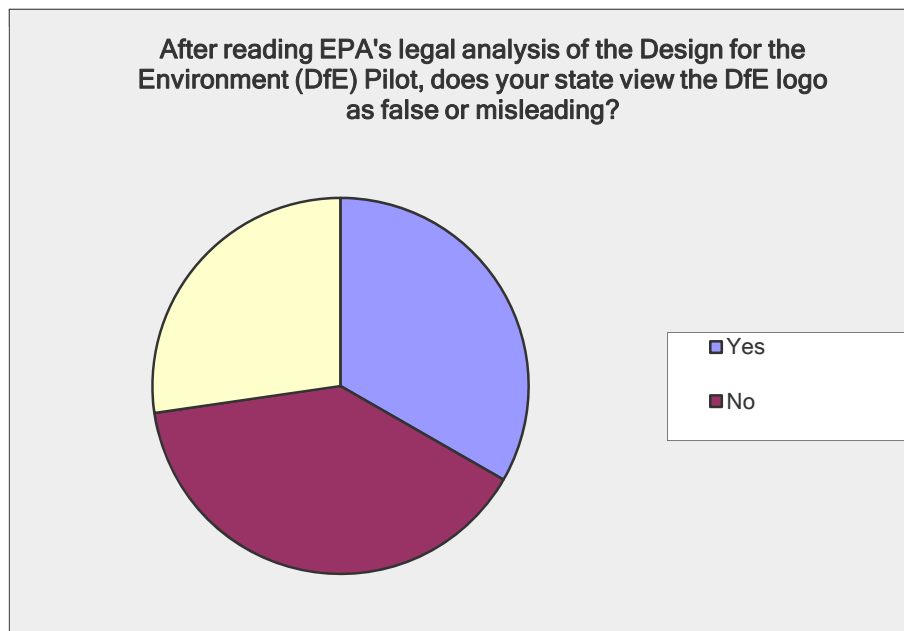
if it appears as outlined it is okay, however, final labels are usually problematic

We have not sought legal opinion. But we also have not allowed due to our view of false and misleading.

Possibly Misleading to people that choose not educate themselves.

No as long as the product has passed EPA review.

We believe it will be perceived by the public as an EPA endorsement of safety, but we are willing to accept EPA's legal analysis.



DfE Registration - SLA Response

If accepted by EPA, will your state refuse state registration of any pesticides bearing the DfE logo?

Answer Options	Response Percent	Response Count
Yes	18.2%	6
No	60.6%	20
Other (please specify)	21.2%	7
<i>answered question</i>		33
<i>skipped question</i>		0

Other (please specify)

IDALS will not deny state registration based solely on the DfE logo

Florida will accept DfE pesticide products IF there is a managed database of approved DfE primary and distributor formulations (labels) maintained by EPA for State DfE references.

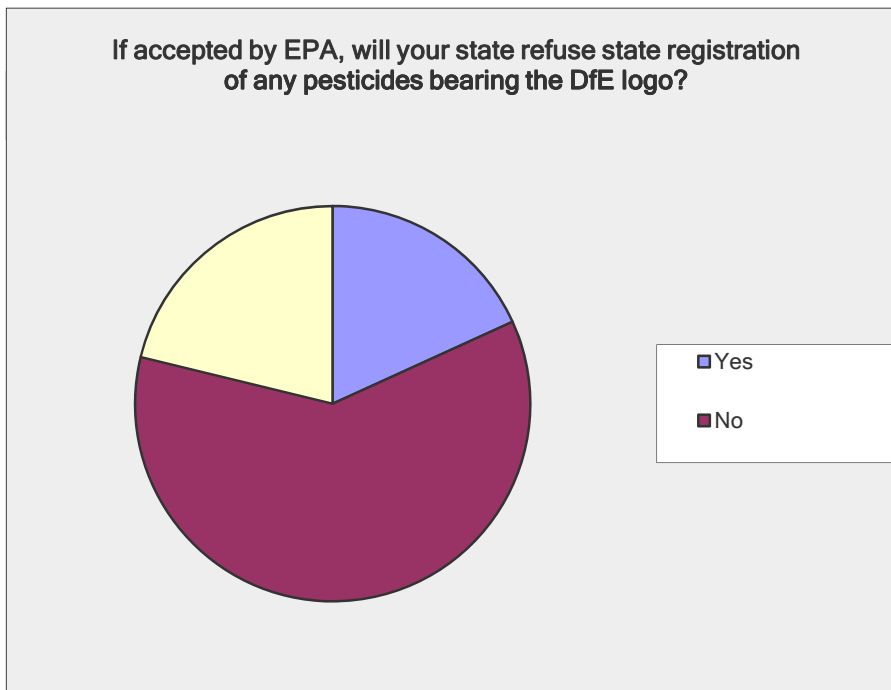
only register if logo appears as required (strictly) and is supported by EPA registration

Our state will register pesticide products with the logo. However, we strongly hope that the logo will be on the EPA Stamped and accepted label, and that the state will not be required to wade through a long list of products on EPA's website.

We will need to seek legal help. But my hope is that we will continue to deny based on a differing legal view.

It would be possible.

Only if the state finds cause to consider the product label clearly false.



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Do you have any other comments or concerns that you would like to share with the SFIREG

Answer Options	Response Count
	24
<i>answered question</i>	24
<i>skipped question</i>	9

Response Text

I do not like the DfE logo since it adds clutter to the label and does seem imply some sort of an endorsement. However, my state lacks authority to deny registration since EPA issued the legal analysis.

Response to questions #2 and 3 are based upon the EPA Memorandum FIFRA analysis of DfE Pilot dated April 22, 2010 and is not representative of a formal review of the pilot program or pesticide product labels submitted to the SLA for review. Content is representative of IDALS at this time and may be subject to change.

YES.

1. We believe there will be problems with Distributor labels if there is not a process for them to be reviewed and accepted by EPA and the Primary registrant.
2. State input is critical to the success of this Pilot Project because we will be the Agency's 'eyes-and-ears' as this process moves towards full implementation.
3. We need a formal commitment by OECA to work with the states to keep "bad actors" out of this process. We need their full Compliance and Enforcement capabilities to make DfE a success.

Tracking/reviewing labels for compliance/non-compliance as part of registration and/or field monitoring would be additional follow-up tasks for states, which are already faced with limited resources.

We understand OGC's point that if consumers are educated on the meaning of the logo then they will not be mislead. However, it is well known that consumers do not read product labels, at least not in their entirety, so it is unlikely they will take the time to go to and read the dfe website. We remain concerned that consumers will infer that the logo means the product is "safe."

DfE was not designed for pesticide products. It's inappropriate, regardless of legal opinion, to apply the logo to only those that request it. Consumers will infer that those without the logo are inferior and less safe.

If DfE is only for products approved by EPA (i.e. Section 3), then state only registrations (like 25(b) and adjuvants) should not qualify. However, many of the State registration products will technically qualify, especially the 25(b) products, and these companies will ask the State to allow them to put the logo on their label. We have a concern that companies that have 25(b) products will try to put the DfE logo on their products without authorization.

Do not support additional advertising claims being added to pesticide labels. This pilot should be immediately discontinued and should definitely not be expanded at all - especially to the highly problematic biopesticide products.

Logos not pertaining to application or use only serve to clutter an already busy pesticide label. The common sense approach of looking at this logo is an implication of a degree of marketing and implied safety to green conscience consumers and has nothing whatsoever to do with use or application of the product. EPA should concentrate on clear, concise and enforceable label language and not marketing.

Agree with enforcement concerns as expressed by POM committee.

While we have no state level authority to deny registration of a label with with Dfe logo, we still struggle with accepting the fact that the logo and Dfe program doesn't make a safety implication and is therefore misleading. Although EPA's pesticide pilot program DfE web pages don't mention the safety implication issue, we see rather clear statements on the main DfE web pages which we feel do make a "claim as to the safety of the pesticide or its ingredients" - Ex. from the front page: EPA's Design for the Environment program helps consumers, businesses, and institutional buyers identify cleaning and other products that ... are safer for human health and the environment"; " the Design for the Environment program applies stringent criteria for health and environmental safety in labeling products with the safest possible chemical ingredients."; and "Products that carry the Design for the Environment (DfE) label are safer for fish and other aquatic life, do not pollute air or waterways, and do not add harmful chemicals to the land." These statements contradict the legal opinion statement about providing education in a way that "will ensure consumers do not infer the product is safe." Thank you.

EPA needs to develop a functional and rapid mechanism for dealing with FIFRA 25b products that illegally use the logo. We are concerned that these 25b companies will illegally use the logo, and that EPA will consider these cases low priority and provide little meaningful response.

We believe the logo is misleading and users would think it was safe to use the product based on the logo on the label..

This program is close enough to an EPA endorsement that the presence of this logo is not misleading.

none

It is important to note Mr. Jeffrey Rogers cover memo indicated EPA had been conducting the DfE pilot "during the last year or so", when in fact it is now going on 5 years, being initiated in early 2010. A second point to make is that the "DfE EPA Report attached to the recent AAPCO list serve message indicated the original pilot was extended "after consultation with PPDC". Please note there is one, and only one, SLA regulator seat on the PPDC, the rest being industry or NGOs. When OPP AA Marty Monell discussed extending the original pilot with SFIREG, she was met with the same opposition the POM committee expressed to her in 2010, and full SFIREG in 2011. Thirdly, please note in the "DfE Legal Analysis EPA" memo attached to the recent AAPCO list serve message that the attorney providing the analysis of the legality of the DfE logo was very clear in that the logo is only considered not misbranded for the PILOT, and that it is not an endorsement of the federal agency for the PILOT. It becomes obvious to me, therefore, that the only reason the pilot was extended is because it is known internally at OPP that if the DfE logo were allowed to be used in anything other than a "pilot" program, it would meet the definition of misbranding because it was then on an "EPA approved label", which is the exact term used by Registration Division for all Section 3 labels.

A label is a label. What's next? Fund raiser for breast cancer. The logo will help market products which helps sell product.

The only drawback is that most of the public will assume that it is entirely safe based on the DfE Logo. I don't have a solution to that other than educating the public.

No further comments at this time.

DC is very concerned about the misleading of the public if a product is labeled "DfE". Other products may have the same active ingredient as the DfE product. The normal consumer would not be aware of this.

It will be important to know where states will go to see verification of the DfE logo approval. Will the EPA stamped label on PPLS reflect the approved use of the DfE logo? Will some sort of data base or spread sheet be available for reference on approved registrant and distributor label products?

Will EPA take regulatory action if a registrant uses the DfE logo without EPA review and approval?

MDARD supports SFIREG - POM comments.

The use of the DfE logo will very likely be construed by the public that the product or service is endorsed by EPA. Governmental regulators have always prevented the use of reference to their agency for marketing / advertising purposes, and the DfE logo makes the implication that the product is somehow better than an identical competing product or service without the logo. Example: We all have seen vehicle scales that say "Certified Scales". But they don't say "WY Dept. of Agriculture Certified Scales; We need to refrain from any element of what is perceived as a marketing reference to any governmental oversight agency on a product or service.

The question as to if a product meets reduced risk criteria for the purpose of Section 3 registration has proven problematic for the Agency. Adding a DFE review will compound this confusion on the part of the Agency and will convey the message to the consumer that the product is "harmless" likely resulting in miss-use.

Our hope is that any abuses of the DfE labeling process will be met by swift and decisive action by OECA.