



STATE OF ALABAMA
DEPARTMENT OF AGRICULTURE AND INDUSTRIES

1445 Federal Drive • Montgomery, Alabama 36107-1123

Rick Pate
Commissioner

Food Safety & Consumer Division – Pesticide Management Section
Phone (334) 240-7242 Fax (334) 240-7168

May 7, 2019

Rick P. Keigwin
Director of Office of Pesticide Programs
USEPA Headquarters
William Jefferson Clinton Building
1200 Pennsylvania Avenue, N. W.
Washington, DC 20460

Dear Mr. Keigwin,

This letter is in response to the notification posted on the Guidance on FIFRA 24(c) Registrations on 03/19/19, under: Important Information on Requests Under FIFRA 24(c). According to the notification, EPA is now re-evaluating its approach to reviewing 24(c) requests and the circumstances under which it will exercise its authority to disapprove those requests. This approach seems contradictory to EPA's core philosophies from their own strategic plan to "restore power to the states through cooperative federalism".

EPA stamps and accepts federal labels from registrants with one-size-fits-all mitigation measures. These mitigation measures do not consider unique or special local conditions, which may increase risks. Therefore, it is critical that there be a mechanism in place for States to not only be able to expand the federal label use of a product but to also restrict it.

The use of a Section 24(c) is the only viable tool a State has which gives them the ability, based on their specialized knowledge of conditions within their state, to efficiently and effectively be proactive in minimizing risks to man and the environment while at the same time trying to protect and/or maintain the use of a product for which a need exists.

States, being the feet on the ground for ensuring compliance with FIFRA, are in a unique and much better position than those at the federal level in their ability to (1) identify when the approved federal label is deficient to allow a product to be used in their State without unreasonable harm to man or the environment due to the specific characteristics or conditions that exist at the local level and (2) identify what on the label needs modification to enable the product to be used legally at the local level while minimizing the potential risk for harm to man and the environment.

The fact that so many States issued 24(c)s for the auxin products and subsequently the current editions of the time-limited labeling approved by EPA for these products now include most of the additional mitigation measures initially appearing on States' 24(c) labeling suggests the following.

1. At the State level there exists a well-informed, knowledgeable community of regulators, scientists and academia who know the challenges that are present in their particular state based on their knowledge of the local conditions and environment. Coupling this aforementioned knowledge, with their working knowledge of their regulated community, makes the State Lead Agencies (SLAs) one of the most powerful resources and partners for ensuring that pesticides are used legally and in a manner which poses the least potential for risk or harm to man or the environment.
2. By giving the states the flexibility to not only expand use but to place additional restrictions on use when exercising the option of granting Section 24(c) registrations, the states are doing the quality assurance and quality control, giving those at the federal level real time data, to help identify potential measures for adoption on the federal label to better minimize potential risks and to help maintain the use of a product for which a need exists.

We understand that many SLA's have been asked, "Why don't these SLAs change the laws in their respective states, instead of utilizing the Sec. 24(c) process?" There are numerous reasons.

- It can take several years for a state to enact or adopt a law. In the meantime, unacceptable non-target damage could occur, and the technology option could be lost. We note also that the introduction of legislation—no matter how practical or necessary—does not assure its passage—or even its serious consideration by any state legislature.
- SLAs have determined that, by requiring certain mitigation measures, they can maintain and manage innovative technologies, which give growers valuable crop and pest management options that would otherwise not be available due to the increased risk of damage they might present.
- Using dicamba as an example, SLAs are continuing to learn about what may influence primary and secondary drift, and the training needs of applicators. With labels changing annually and a short two-year registration period of the dicamba containing products, SLAs have not been able to consistently identify the mitigation measures needed beyond the Section 3 label. **Utilizing the Sec. 24(c) process allows SLAs to be nimble, timely, practical and appropriately responsive.**
- The Sec. 24(c) process has been very successful, as it identifies needed mitigation measures each year. For example, since 2017, the dicamba federal product labels have gone through many edits because of states' Sec. 24(c) registrations. The additional requirements provided on Sec. 24(c) labels include: a wind speed restriction of less than 10 mph, the need for training, completing records within 72 hours, the introduction of cut-off dates, and many others that have been successful in reducing adverse effects and mitigating risks. If states had not used the Sec. 24(c)

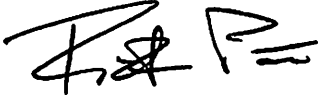
process, SLAs would still be in the initial stages of identifying individual mitigation measures. Again, many of these measures have been included in the Section 3 labeling.

Historically, SLAs have granted a wide variety of Sec. 24(c) registrations. The EPA policy of not disapproving more restrictive Sec. 24(c) registrations has been in place for nearly 30 years. The current process has allowed SLAs to continue the use of various pesticides, within their individual jurisdictions, with additional safeguards.

The use of a Section 24(c) is the only viable tool a State has which gives them the ability, based on their specialized knowledge of conditions within their state, to efficiently and effectively be proactive in minimizing risks to man and the environment while at the same time trying to protect and/or maintain the use of a product for which a need exists.

ADAI takes this issue very seriously and support the state's right to grant a Section 24(c) pesticide registration to reduce risk. We look forward to working productively with our US EPA partners in this matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'Rick Pate', with a stylized flourish at the end.

Rick Pate, Commissioner
Alabama Department of Agriculture and Industries