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THE FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT FREQUENTLY ASKED QUESTIONS

1. What is a pesticide for purposes of regulation under FIFRA?

For purposes of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), a pesticide is defined as “any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest.” FIFRA defines a “pest” broadly to include “(1) any insect, rodent, nematode, fungus, weed, or (2) any other form of terrestrial or aquatic plant or animal life or virus, bacteria, or other micro-organism (except viruses, bacteria, or other micro-organisms on or in living man or other animals).”

2. How does EPA determine if a product is a pesticide?

EPA considers a substance to be intended for a pesticidal purpose if the person who distributes or sells the substance states or implies that the substance can or should be used as a pesticide or that the product consists of, or contains, an active ingredient and that it can be used to manufacture a pesticide. EPA also considers a substance to be a pesticide if it consists of one or more pesticidal active ingredients and it has no significant commercially valuable use as distributed and sold except as a pesticide or for use to manufacture a pesticide. Finally, EPA considers a substance to be a pesticide if the person who distributes or sells it has actual or constructive knowledge that the substance will be used or is intended to be used as a pesticide.

3. What products are not considered to be pesticides?

Certain substances or articles are not considered to be used against pests and thus are not pesticides or have been exempted from regulation as pesticides. They include: substances to control bacteria, viruses, or fungi in or on living man or animals; products to control internal invertebrates in living man or animals; products intended only to aid the growth of desirable plants; deodorizers, bleaches, and cleaning agents; products not containing toxicants intended to attract pests for purposes of survey detection; products that operate to exclude pests by a physical barrier; pesticides that are regulated by other federal agencies and are exempted from FIFRA (certain biological control agents and certain human drugs); and certain pesticides or classes of pesticides that are determined to be of a character not requiring FIFRA registration (treated articles and substances, pheromones and pheromone traps, preservatives for biological specimens, foods, natural cedar, and minimum risk pesticides enumerated by regulation).

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4. What requirements must be met to distribute and sell a pesticide in the United States?

A person may not distribute or sell any pesticide that is not registered under FIFRA. All pesticides must be distributed bearing their EPA-approved pesticide label. It is unlawful for any person to sell or distribute (1) an unregistered pesticide or (2) a registered pesticide (i) with claims that differ from those approved by EPA; (ii) that differs in composition from the composition approved by EPA; (iii) that has not been colored or discolored, if coloration is required; or (iv) that is adulterated or misbranded. A pesticide is “misbranded” if, among other things, its labeling: bears any false or misleading statement; does not bear the establishment or product registration number; does not prominently display any required word, statement, or other information; does not contain directions for use that are adequate to protect health and the environment; does not contain a warning or caution statement adequate to protect health and the environment; or does not contain the use classification. A pesticide is “adulterated” if its strength or purity differs from that stated on the label, any substance has been substituted in whole or part for the pesticide, or any valuable component of the pesticide is not present.

Other prohibited acts for registered pesticides include, among other things, detaching or altering the labeling of a pesticide; refusing to prepare, maintain, or submit required records, or to submit required reports; refusing to allow an EPA inspector to enter or inspect a facility, copy records, or conduct sampling; selling a restricted use pesticide to a non-certified applicator; using a pesticide in a manner inconsistent with its labeling; using an experimental use permit for a non-authorized use; violating any “stop sale, use, or removal” order issued under FIFRA Section 13; violating any suspension or cancellation order; violating the requirements for filing FIFRA Section 7 reports; knowingly submitting a false application for registration, report, or other information, or falsifying any required records; failing to file required reports; improperly adding or removing any substance from a pesticide; conducting human testing of pesticides without informed consent; submitting false test data or information; and violating any regulation issued under FIFRA Sections 3(a) or 19 pertaining to the sale or use of an unregistered pesticide or the storage, disposal, transportation, and recall of pesticides.

5. What is the standard under which EPA determines whether to register a pesticide for sale in the United States?

EPA must register a pesticide if it determines that (1) its composition is such as to warrant the claims proposed for it by the applicant for registration; (2) its labeling and other material required to be submitted comply with the requirements of FIFRA; (3) it will perform its intended function without unreasonable adverse effects on the environment or human health; and



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(4) when used in accordance with widespread and commonly recognized practice, it will not generally cause unreasonable adverse effects on the environment or human health.

6. Are there various types of pesticide registrations?

Yes. There are a number of types of pesticide registrations: (1) unconditional registrations; (2) conditional registrations, which typically are subject to a requirement that the registrant submit within a specified time frame additional scientific data supporting the registration; (3) supplemental registrations or “subregistrations” whereby one party distributes a pesticide as the agent of a registrant; (4) state special local needs registrations to authorize distribution and sale of a pesticide within a state for specific uses; (5) restricted use pesticides that can be applied only by certified applicators; and (6) FIFRA Section 18 emergency exemptions that permit the use of a federally registered pesticide on an additional crop or to control additional pests on an emergency basis.

7. How do you obtain a pesticide registration?

FIFRA defines in very broad terms the procedures for applying for a pesticide registration which EPA has supplemented through its regulations, guidelines, and other guidance documents. Each applicant for a pesticide registration must submit to EPA (1) a complete copy of the labeling proposed for the product, a statement of all claims made for it, and any directions for its use; (2) the complete formula for the pesticide; and (3) a full description of any tests made and the results thereof upon which the claims are based, or alternatively citation to data either in the public literature or submitted previously to EPA. The EPA Office of Pesticide Programs has a Registration Division that is responsible for reviewing applications for registration. The Registration Division is organized into product teams by pesticide type and supported by science divisions which review the data submitted concerning the risks that a pesticide may pose to human health and the environment.

To facilitate its registration and product labeling decisions, EPA has promulgated elaborate requirements for numerous types of scientific studies, which it directs pesticide manufacturers to conduct to obtain and maintain pesticide registrations. EPA requires a wide range of data in categories that include product chemistry, environmental and mammalian toxicity, environmental fate, residue chemistry, reentry exposure, and spray drift.

Pursuant to EPA regulations, pesticide registration studies must be conducted in compliance with Good Laboratory Practice (GLP) requirements. These regulations are intended to assure the quality and integrity of all data submitted to EPA to support registration of pesticides under FIFRA and tolerances established under the Federal Food, Drug, and Cosmetic



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Act (FFDCA). Any person who submits to EPA a study to which GLP requirements apply must submit either a statement that (1) the study was conducted in accordance with the requirements of the GLP regulations; (2) a statement describing in detail all differences between the practices used in the study and those required by the GLP regulations; or (3) a statement that the submitter was not the sponsor of the study, did not conduct the study, and does not know whether the study was conducted in accordance with GLP regulations. Testing facilities that conduct testing subject to the GLP requirements are subject to inspection to assess compliance with these requirements. The GLP regulations establish, among other things, requirements for testing facility management, maintaining a quality assurance unit in testing facilities, adequate facilities and equipment for testing, standard operating procedures for testing facilities, study protocols, study conduct, and recordkeeping and archival.

8. May EPA require additional scientific data for a pesticide that already is registered?

Pursuant to FIFRA Section 3(c)(2)(B), EPA has authority to issue “Data Call-Ins” or “DCIs” to all existing registrants of a pesticide. To satisfy the DCI, a registrant can (1) advise EPA that it will conduct and submit the studies required by the DCI; or (2) offer to any other registrant of the pesticide to develop jointly or to share in the cost of developing the data. For those pesticides for which these are multiple registrants, it is common for such registrants to form “task forces” to conduct jointly the studies required to maintain the registration of a pesticide active ingredient.

9. Does EPA direct registrants concerning how to label a pesticide product?

Yes. In registering any pesticide product, EPA must ensure that its labeling is adequate to protect the health and safety of anyone who uses or may be exposed to the product. EPA must insure that when used according to its labeling, a pesticide will not cause “unreasonable adverse effects on the environment.” A pesticide product is “misbranded” if the “label does not contain a warning or caution statement which is necessary and if complied with is adequate to protect health and the environment.”

10. Are there special requirements for pesticides that are used on food or feed crops or otherwise used in the production of foods?

EPA regulates pesticide residues in or on food under FFDCA Section 408. EPA establishes “tolerances” that set maximum limits for residues of a pesticide on food. EPA imposes substantial requirements for additional scientific data on which it bases decisions concerning pesticide tolerances.



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11. What standard does EPA apply in establishing pesticide tolerances?

EPA must determine that the pesticide residue is “safe,” and that there is a “reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.” In considering aggregate exposure, EPA considers lifetime dietary exposure under all food tolerances that EPA has established, for the pesticide, as well as non-occupational exposure (*e.g.*, drinking water). In establishing pesticide tolerances, EPA must also consider the cumulative effects from exposure to the pesticide residue along with other substances that have a “common mechanisms of toxicity. EPA additionally must make a determination that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide.

12. Does FIFRA also regulate pesticidal devices?

Yes. Under FIFRA, a pesticidal “device” is any instrument or contrivance (other than a firearm) which is intended for trapping, destroying, repelling, or mitigating any pest. Devices are not subject to registration under FIFRA. Devices are, however, subject to requirements for registering producing establishments, maintaining records, and product labeling and packaging.

13. Can a registrant transfer a registration?

Yes. Under EPA regulations, registrants may transfer registrations, without requirement of a new application for registration by the transferee, upon submission, and EPA’s approval of, an application to transfer a registration. The application to transfer a registration must be executed by the transferor and transferee in the form prescribed by EPA regulations.

14. Must each registrant of a pesticide submit its own data to support the registration of its product?

Each registrant must submit its own data responding to a relatively small number of data requirements that are specific to individual products. The majority of data requirements apply to a pesticide active ingredient, whether in its nearly pure form or in the form of a typical end-use product. For these data requirements, a registrant can submit data, cite publicly available data, or cite data submitted to EPA by another registrant. FIFRA gives an “original data submitter” a ten-year period of exclusive use of those data submitted to support initial registration of a pesticide or to register a new use of a previously registered pesticide. During that time, no other applicant for registration can rely on the data unless the data owner consents. Following the



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period of exclusive use and for all other data, an applicant can rely on data submitted by another party if it offers to compensate the data owner for their use.

15. Must the applicant pay compensation prior to obtaining its registration?

No. If an applicant offers to compensate the data owner, it can rely on the data to obtain a registration.

16. How is the amount of compensation for data determined?

FIFRA contains no standard or guideline regarding the terms and amount of compensation. If the parties are unable to agree on the compensation to be paid, either party may, within 90 days of the offer to compensate, initiate binding arbitration. Although some arbitration awards are publicly available to provide guidance concerning the arbitration process, there is no binding precedent for calculating the compensation that is due.

17. How does an applicant for registration cite another registrant's data?

There are two methods by which an applicant can cite another registrant's data. The "cite-all method" allows an applicant to rely upon all non-exclusive use data in EPA's files which (a) concern the properties or effects of the applicant's product, or of a product which is identical or substantially similar, or the active ingredient in the applicant's product; and (b) are one of the types of data that EPA would currently require if the applicant sought initial registration of a product with composition and uses identical or substantially similar to the applicant's product. The "selective method" allows an applicant to list each specific EPA data requirement applicable to its product and either cite specific studies on file with EPA for each requirement or otherwise satisfy the EPA requirement.

18. Are there any exemptions from paying data compensation?

FIFRA exempts registrants from: (1) submitting or citing data pertaining to the active ingredient in a formulated product, and (2) offering to pay compensation for such data. The "formulator exemption" applies only if the applicant purchases a registered pesticide (*i.e.*, active ingredient) from another producer in order to formulate it into the applicant's product. The exemption is limited to uses specifically listed on the manufacturing use product label.



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19. Does EPA routinely reexamine registrations issued years ago?

EPA is “reregistering” all existing pesticides that were registered initially prior to 1984. Pursuant to the reregistration program, EPA has used extensively its authority to “call-in” additional data either to fill gaps in its database for certain pesticide active ingredients or to replace existing studies with those meeting current scientific and regulatory standards and guidelines. The reregistration process culminates in EPA issuing a Registration Eligibility Document that (1) provides an overview of significant information concerning the active ingredient; (2) a human health risk assessment; (3) an environmental impact assessment; (4) a list of data considered by EPA in its evaluation of the chemical; (5) a list of additional data that EPA will require to be developed; and (6) any required changes in the product labeling or terms and conditions of registration; and (7) the reregistration eligibility decision and rationale.

20. Is there an EPA procedure for examining whether a pesticide should remain registered based on special concerns regarding its potential risks?

Yes. EPA may initiate a Special Review if it is concerned about the risk posed by a pesticide on the basis of a “validated test” or “other significant evidence raising prudent concerns of unreasonable adverse risk to man or the environment.” A Special Review can culminate in a decision to cancel one or more uses of a pesticide, make changes to the terms and conditions of registration, or continue the registration unchanged. Before initiating a Special Review, EPA must provide written notice to the registrant who may dispute the need to conduct a Special Review. During a Special Review, EPA issues a series of Position Documents for comment by the registrant and other interested members of the public.

21. What procedure does EPA generally follow if it determines that a pesticide should not be registered?

FIFRA authorizes EPA to issue a Notice of Intent to Cancel the registration of a pesticide, or modify the terms and conditions of registration, if “it appears . . . that a pesticide or its labeling . . . when used in accordance with widespread and commonly recognized practice, generally causes unreasonable adverse effects” to humans or the environment, taking into account the economic, social, and environmental costs and benefits of the use of the pesticide. Before issuing a Notice of Intent to Cancel, EPA must issue a Proposed Notice of Intent to Cancel which is submitted to the United States Department of Agriculture for analysis of the impact of EPA’s proposed action on the agricultural economy. A cancellation notice becomes final 30 days after publication in the *Federal Register* or after notice to the registrant, unless a hearing is requested or the registrant amends the registration. In addition to the registrant, any person adversely affected by the cancellation notice, including user groups, can request a



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hearing. User groups cannot, however, compel a registrant to defend a pesticide registration or disturb a settlement between EPA and a registrant to cancel the registration or modify the terms and conditions of a registration. If a hearing is requested, the party objecting to cancellation bears the burden of showing that the benefits of the pesticide exceed the risks from its use.

22. Are there faster ways for EPA to stop the use of a pesticide that EPA believes is not safe?

EPA can issue a suspension order if it finds that a suspension is necessary to prevent an “imminent hazard” during the time required to complete a cancellation hearing. An “imminent hazard” is a substantial likelihood of serious harm during the duration of a cancellation proceeding. EPA may issue a Suspension Notice if it has issued, or issues at the same time as the Suspension Notice, a Notice of Intent to Cancel the pesticide registration. Following notification of a suspension, affected registrants may within five days request an expedited administrative hearing to determine solely whether an “imminent hazard” exists. If no hearing is requested within five days, the suspension goes into effect. If a hearing is requested, the suspension is not effective until issuance of an order confirming EPA’s decision to suspend the registration.

EPA also can issue an “emergency suspension” order in certain circumstances to require suspension prior to a hearing. EPA must promptly submit such orders to its Scientific Advisory Panel for review. An emergency suspension order is reviewable in district court, which review can be simultaneous with an administrative hearing. Where EPA issues a suspension and cancellation order, FIFRA provides for EPA to indemnify end users for pesticides held prior to issuance of such orders.

23. Do pesticide registrants have reporting obligations?

There are several reporting obligations. The most significant reporting responsibility imposed on pesticide registrants is to report immediately to EPA under FIFRA Section 6(a)(2) any additional factual information regarding unreasonable adverse effects of the pesticide. EPA interprets this reporting obligation very broadly and has provided detailed guidance concerning this reporting requirement in regulations found at 40 C.F.R. Part 159.

24. What obligations does FIFRA impose on a company that operates a pesticide production facility?

FIFRA requires that a company register with EPA any “establishment” at which any pesticide production activity, including pesticide packaging and labeling, is performed. Each



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producer operating a production establishment must submit an annual pesticide production report. In addition, all registrants, as pesticide producers, must maintain production records, even if actual production is contracted to another party. These records must include for a two-year time period (1) batch production records; (2) records showing brand names and quantities of any devices produced; (3) records concerning the receipt of any product used to produce the registered pesticide product; (4) records reflecting shipment of all pesticides and active ingredients for producing pesticides; (5) copies of domestic advertising for any Restricted Use Pesticides; (5) certain documents relating to pesticide exports; (6) records regarding disposal of pesticides (which must be maintained for 20 years); and (7) records of any human testing conducted (which also must be maintained for 20 years).

25. Does FIFRA restrict pesticide imports?

Yes. FIFRA directs the United States Customs Service, within the Department of the Treasury, to refuse delivery to any consignee of a pesticide imported to the U.S. “[i]f it appears from the examination of a sample that it is adulterated, or misbranded or otherwise violates the provisions set forth in [FIFRA], or is otherwise injurious to health or the environment.” Prior to importing a pesticide, the consignee must file with the Customs Service a Notice of Arrival form.

26. Does FIFRA restrict export of pesticides?

Yes. FIFRA Section 17 permits a pesticide device or active ingredient used in producing a pesticide to be lawfully exported “when prepared or packed according to the specifications or directions of the foreign purchaser,” if certain FIFRA labeling requirements, establishment registration requirements, and requirements on the registrant to maintain books and records are met. Among other requirements, FIFRA requires that the label warning and caution statements, ingredient statement, the word “Poison” if required for the pesticide, and the “statement of practical treatment” (first aid) be provided in both English and in the appropriate language of the country to which the pesticide is exported. A pesticide that is not registered in the U.S. may be exported to a foreign country only if the foreign purchaser provides a written acknowledgment, as specified in EPA’s regulations, that the pesticide is not registered and cannot be sold in the U.S.

27. Does FIFRA regulate differently antimicrobial pesticides from other types of pesticides?

Yes. In the Food Quality Protection Act of 1996 (FQPA), Congress established special provisions in FIFRA for the regulation of antimicrobial pesticides. An antimicrobial pesticide is intended to “disinfect, sanitize, reduce or mitigate growth or development of microbiological



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organisms” or “protect inanimate objects, industrial processes or systems, surfaces, water, or other chemical substances from contamination, fouling, or deterioration caused by bacteria, viruses, fungi, protozoa, algae, or slime.” To qualify for regulation as an antimicrobial pesticide, a pesticide, when employed for its intended use, must also be exempt from, or not otherwise subject to, tolerance requirements or U.S. Food and Drug Administration (FDA) food additive regulations. Unlike most agricultural and household pesticides, EPA requires data demonstrating the efficacy of antimicrobial pesticides that are employed for “public health purposes.” To resolve a backlog in EPA’s processing of applications to register or amend registrations for antimicrobial pesticides, FQPA mandates time limits within which EPA must process such applications for antimicrobial pesticides.

28. Are pesticide-treated articles regulated under FIFRA?

EPA has exempted from regulation as pesticides certain classes of products, including “treated articles.” Long established EPA regulations provide two conditions for qualifying for the treated article exemption from FIFRA registration requirements. First, the article must be “treated with, or contain[, a pesticide to protect the article or substance itself.” Second, the “pesticide [must be] registered for such use.” The treating pesticide is typically an antimicrobial pesticide. In 1998, EPA published a Draft Pesticide Registration notice concerning this exemption which has been the subject of considerable concern because it may require registration of articles that heretofore had been believed widely to fall within the treated articles exemption.

29. How does FIFRA affect biotechnology products?

Biotechnology products are increasingly important to agricultural production, including the development of and planting of agricultural crops that are bred or genetically modified to resist pests or to tolerate the application of chemical crop protection products. Substances that are produced in plants to enable the plants to resist plants or diseases fall within the definition of a pesticide under FIFRA. EPA presently regulates plant-pesticides under its existing regulations for the registration of pesticides, pending the development of regulations tailored specifically to plant pesticides. EPA encourages applicants to consult early with EPA in the process of developing an application to register a plant-pesticide.

30. Does FIFRA regulate the use of pesticides?

Yes. FIFRA regulates the application and use of pesticides through pesticide product labels and labeling. This includes label restrictions established pursuant to EPA’s Worker Protection Standard, which establishes procedures intended to reduce or eliminate occupational



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exposure to pesticides by agricultural workers and for responding to pesticide exposure-related emergencies. In addition, certain products -- restricted use pesticides -- can be applied only by, or under the direct supervision of, a “certified applicator.” Use of a pesticide in a manner inconsistent with its labeling is unlawful under FIFRA. States hold primary enforcement responsibility for pesticide use violations.

31. Does FIFRA regulate pesticide disposal?

Yes. FIFRA Section 19(a)(1)(B) authorizes EPA to require that pesticide labeling contain requirements and procedures for the transportation, storage, and disposal of a pesticide, pesticide container, rinsate, or any other material used to contain or collect excess or spilled quantities of the pesticide. EPA requires that all pesticide product labels contain instructions for the storage and disposal of pesticides and pesticide containers.

32. What acts constitute violations of FIFRA subject to potential EPA enforcement action?

FIFRA Section 12 lists acts which are prohibited by FIFRA. It is unlawful for any person to sell or distribute (1) an unregistered pesticide or (2) a registered pesticide (i) with claims that differ from those approved by EPA; (ii) that differs in composition from the composition approved by EPA; (iii) that has not been colored or discolored, if coloration is required; or (iv) that is adulterated or misbranded. A pesticide is “misbranded” if, among other things, its labeling: bears any false or misleading statement; does not bear the establishment or product registration number; does not prominently display any required word, statement, or other information; does not contain directions for use that are adequate to protect health and the environment; does not contain a warning or caution statement adequate to protect health and the environment; or does not contain the use classification. A pesticide is “adulterated” if its strength or purity differs from that stated on the label, any substance has been substituted in whole or part for the pesticide, or any valuable component of the pesticide is not present.

Other prohibited acts for registered pesticides include, among other things, detaching or altering the labeling of a pesticide; refusing to prepare, maintain, or submit required records, or to submit required reports; refusing to allow an EPA inspector to enter or inspect a facility, copy records, or conduct sampling; selling a restricted use pesticide to a non-certified applicator; using a pesticide in a manner inconsistent with its labeling; using an experimental use permit for a non-authorized use; violating any “stop sale, use, or removal” order issued under FIFRA Section 13; violating any suspension or cancellation order; violating the requirements for filing FIFRA Section 7 reports; knowingly submitting a false application for registration, report, or other information, or falsifying any required records; failing to file required reports; improperly adding



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or removing any substance from a pesticide; conducting human testing of pesticides without informed consent; submitting false test data or information; and violating any regulation issued under FIFRA Sections 3(a) or 19 pertaining to the sale or use of an unregistered pesticide or the storage, disposal, transportation, and recall of pesticides.

33. What are the penalties that EPA can impose for violations of FIFRA?

EPA can bring administrative actions to recover civil penalties for violations of FIFRA. Under FIFRA Section 14(a), EPA can assess against any registrant, commercial applicator, wholesaler, dealer, retailer, or distributor for violation of FIFRA a penalty of up to \$5,000 (subject to annual adjustment for inflation). In determining the size of the penalty, EPA must consider the appropriateness of the penalty to the size of the business, the effect on the entity's ability to continue in business, and the gravity of the violation. Prior to assessing a civil penalty, EPA must provide a party with notice and an opportunity to request a hearing before an administrative law judge. FIFRA also authorizes EPA to issue a notice of warning, in lieu of assessing a civil penalty, when a violation occurred despite the exercise of due care or when it did not cause significant harm to health or the environment. EPA calculates proposed civil administrative penalties, on the basis of its FIFRA Enforcement Response Policies, although administrative law judges are bound to apply the statute, rather than EPA policies, in establishing penalties following a hearing in a contest of case. A respondent in an EPA enforcement action may request a hearing limited to the issue of the appropriate penalty to be assessed for violations of FIFRA.

FIFRA Section 14(b) authorizes criminal prosecution of a registrant, applicant for registration, or pesticide producer who knowingly violates FIFRA. The maximum criminal penalty is a fine of \$50,000 and/or one year in prison. A commercial applicator or distributor of a restricted use pesticide who commits a knowing violation of FIFRA is subject to a maximum criminal penalty of a fine of \$25,000 and/or one year in prison.

34. What authority do states have to regulate pesticides?

Under FIFRA Section 24(a), “[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” FIFRA. Many states have adopted such regulations, and some states have developed their own registration requirements. Some of the state requirements parallel the federal requirements, while others, such as California, impose more onerous additional requirements -- including, in some instances, data requirements. Before offering a pesticide for sale or use in any state, a federal registrant should ensure compliance with that state's laws and regulations.



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While states are permitted to regulate the sale and use of pesticides, FIFRA Section 24(b) preempts state laws that would “impose or continue in effect any requirements for labeling or packaging in addition to or different from those required under” FIFRA. This provision has been interpreted not to prohibit local ordinances that restrict pesticide application, requirements imposed on pesticide applicators to post notices informing the public of pesticide application, nor state law requirements under California Proposition 65, which requires manufacturers and distributors of products containing certain chemicals to inform the public that the product contains a chemical for which the State of California has made a determination that it causes either cancer or birth defects. On the other hand, this provision has been held by a majority of state and federal courts to preempt state tort law claims that would have the effect of imposing additional or different requirements for pesticide labeling, warnings, and instructions.

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