is needed to develop information needed to support an application for registration. An unregistered pesticide may be made available to combat some emergency upon application by a state agency, usually the state commissioner of agriculture.

FIFRA Regulations for Pesticide Applicators

The heart of the FIFRA regulatory scheme for pesticide application, storage and disposal is the provision for detailed instructions contained within the labeling of each registered pesticide product. Labeling instructions are considered by the courts to be legislative regulations with the force of law.[2] Thus, it is unlawful "...to use any registered pesticide in a manner inconsistent with its labeling."[3] "Labeling" refers not only to the label printed on or attached to the pesticide product or its container, but also to any literature referred to on the label or in accompanying literature. It is unlawful to detach, alter, deface or destroy the pesticide labeling.[4]

The term "to use any registered pesticide in a manner inconsistent with its labeling" means to use[5] any registered pesticide in a manner not permitted by the labeling. However, there are uses that, while not explicitly permitted by the labeling, are not considered to be inconsistent with the labeling. These uses include:

-Application of a registered pesticide at a dosage, concentration, or frequency less than that specified on the labeling.

-Applying a pesticide against a target pest not specified on the labeling as long as the application to the crop, animal or site is permitted by the labeling.

-Employing any method of application not prohibited by the labeling.

-Mixing a pesticide with a fertilizer when the mixture is not prohibited by the labeling.[6]

The labeling of each registered pesticide product, whether for general or restricted use , contains brief but explicit directions for proper application, storage and disposal of the container. The applicator must ensure that these instructions are followed carefully.

FIFRA directs the EPA to establish different standards for private and commercial applicators in regard to record keeping[7] and provides for civil and criminal penalties.[8] A private applicator is a certified applicator who uses, or supervises the use of, restricted use pesticides for purposes of producing any agricultural commodity on property owned or rented by him or his employer, or on the property of another person provided the application is not for compensation. The exchange of personal services between producers of agricultural commodities is not considered "compensation."[9] Thus if a farmer treats a neighbor's field and is repaid by some personal service performed by the neighbor, the farmer is still considered a private applicator.[10]

A commercial applicator is a certified applicator who uses, or supervises the use of, restricted use pesticides for any purpose or on any property other than that described for private applicators. Generally, any application on the property of others for compensation other than personal services constitutes commercial application.[11]

In addition, agency regulations for pesticide storage and container disposal provide special provisions and expectations for farmers applying pesticides for their own use,[12] persons storing or disposing of single containers,[13] and "small quantity generators" of hazardous waste.[14] A general distinction exists through FIFRA and related statutes between private applicators and commercial applicators, based on either the quantity of pesticides or containers involved or whether the application is private or for compensation. The private applicator should be aware, however, that he may become subject to regulations aimed at commercial applicators by virtue of exceeding the specified quantities of stored or discarded hazardous waste[15] or by applying registered pesticides for other than his own use or for compensation.[16]