Section 1.7

Product Labeling at Use Site

Interprets FAC sections 12852, 12882 and 12973; 3 CCR section 6602

Background

3 CCR section 6602 clarifies and makes specific what is meant in FAC section 12973 by "delivered" and exactly what must be present. This section requires that a "copy" of the registered labeling covering the actual use be available at the use site. Typically, there is a registrant's container onsite with a label attached -- this is accepted as a copy of the registered labeling.

However, there are occasions where the registrant's container may not be at the use site, a service container may be in use, or the use is covered only by supplemental labeling or a Section 24(c) Special Local Need registration. In these situations, the user must arrange for alternate means of ensuring the appropriate labeling is on site.

Note: Section 18 Emergency Exemption use instructions are not considered labeling but exemptions *from* labeling. If the required Section 18 use instructions are not present at the use site, there is a violation of FAC section 12973 if the use is in conflict with the registered labeling.

Requirement

To be in compliance with 3 CCR section 6602, the labeling at the use site must completely cover both the general requirements and directions specific to the use. The text of the label must be the same as registered labeling, which has been approved by DPR's Registration Branch. Differences in the directions, restrictions, or precautions are unacceptable. Differences in format or layout are acceptable, unless they create a false or misleading impression.

Limitation

This interpretation should not be construed as permitting registrants to distribute new "FIFRA section 3" labels as supplemental labeling to change the use pattern of existing labeled product. This practice would be a violation of FAC section 12852.

Guidance

Any document that is an accurate depiction of the directions, restrictions, and precautions on the registered labeling is acceptable for complying with 3 CCR section 6602. Acceptable labeling can be formatted in various media including physical formats (i.e. paper copies, photographs, or facsimiles) as

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well as digital formats (i.e. web distributed labeling, digital images, specimen labels downloaded from a registrant website or similar service, or other electronic formats).

During a pesticide use inspection, the pesticide user demonstrates compliance with section 6602 by physically producing a copy (paper or digital) of the labeling for CAC staff to review. The user can demonstrate compliance by producing either a paper copy or a digital copy of the labeling.

The same standard applies to paper or digital labels: the user must make viewable the contents of the labeling. The mere presence of a mobile device or computer at the use site does not demonstrate that a digital copy of the labeling is at the use site no more than an unidentifiable stack of papers at the use site demonstrates the physical presence of the registered labeling. For either medium, the user must provide a copy of the relevant labeling, either by displaying the labeling in the case of an electronic device, or presenting the physical copy of the labeling relevant to the use.

Enforcement

Regardless of the medium (paper or digital), it is the responsibility of the user to ensure that the labeling at the site accurately reflects currently registered labeling. If the electronic device fails, the user would be in violation of section 6602 if that was the only means of reviewing the labeling relevant to the use.

If it is discovered the labeling on site is not a true and accurate copy of the registered labeling, action can be taken for a violation of 3 CCR section 6602. Any use of a pesticide in conflict with **registered** labeling that was **delivered** with the pesticide is a violation of FAC section 12973.

It is not expected that CAC staff routinely conduct detailed comparisons of the labeling on site to registered labeling on file with DPR during field inspections. When the labeling attached to the container or electronically distributed is not the same as the labeling registered with DPR, it could be considered misbranded and a potential violation of FAC section 12882(d). However, situations which raise concerns about misbranding should be investigated and referred to the EBL assigned to your county for possible DPR product compliance action.