

STATE FIFRA ISSUES RESEARCH & EVALUATION GROUP (SFIREG)  
FULL COMMITTEE MEETING  
JUNE 26-27, 2017  
U.S.EPA, POTOMAC YARDS, CRYSTAL CITY, VA

Called by: Cary Giguere, VT, SFIREG Chairperson  
Minutes by: Amy Bamber, AAPCO Executive Secretary

Monday June 26, 2017 8:30am

**U.S. EPA OFFICE OF PESTICIDE PROGRAMS UPDATE**

Yvette Hopkins, EPA/OPP/FEAD

**Device Determination Process Changes in OPP**

The regulatory divisions are working together to develop a strategy to address pesticidal device determinations in a consistent manner and track responses.

Incoming questions from the public concerning pesticidal devices should come directly to OPP, to the following contacts:

- AD products: send inquiries to the OPP AD Ombudsman (OPP\_AD\_Ombudsman@epa.gov).
- RD products: send inquiries to Sherada Hobgood (the RD Ombudsman) with a copy to Meredith Laws.
- BPPD products: may be addressed to the BPPD Ombudsman (BPPDquestions@epa.gov) and Jeannine Kausch.

**Four Neonicotinoid Risk Assessments**

In January, EPA published preliminary pollinator-only risk assessments for the neonicotinoid insecticides clothianidin, thiamethoxam, and dinotefuran and also an update to its preliminary risk assessment for imidacloprid, which we published in January 2016. The updated imidacloprid assessment looks at potential risks to aquatic species, and identifies some risks for aquatic insects.

The assessments for clothianidin, thiamethoxam, and dinotefuran, similar to the preliminary pollinator assessment for imidacloprid, showed that most approved uses do not pose significant risks to bee colonies. However, spray applications to a few crops, such as cucumbers, berries, and cotton, may pose risks to bees that come in direct contact with residue. In its preliminary pollinator-only analysis for clothianidin and thiamethoxam, the EPA has proposed a new method for accounting for pesticide exposure that may occur through pollen.

The 60-day public comment period began on May 25, 2017 and closes on July 24, 2017. View the Federal Register notice: <https://www.gpo.gov/fdsys/pkg/FR-2017-05-25/html/2017-10755.htm>.

STATE FIFRA ISSUES RESEARCH & EVALUATION GROUP (SFIREG)  
FULL COMMITTEE MEETING  
JUNE 26-27, 2017

U.S.EPA, POTOMAC YARDS, CRYSTAL CITY, VA

EPA encourages stakeholders and interested members of the public to visit the dockets for the neonicotinoid pesticides to review the materials there and submit comments. View the [neonicotinoid registration review schedule](#) for links to the individual dockets: <https://www.epa.gov/pollinator-protection/schedule-review-neonicotinoid-pesticides>.

### **Water Soluble Packaging**

On April 5, 2017, EPA sent a letter to pesticide registrants about revised directions for use for products manufactured in water soluble packages. Currently, handling instructions vary across WSP products and most may not adequately address the improper practices that have been observed in the field. Clear and consistent labeling instructions will enhance worker protection. We are requiring registrants to submit updated labels for their products manufactured in WSP reflecting only the changes to the “Directions for Use” section that we provided. We appreciate the work by the states and the Agricultural Handler Exposure Task Force on identifying and helping resolve this issue. The deadline for submitting revised label instructions, originally May 5, has been extended to October 5, 2017.

### **Label Review Manual Updates**

We are in the process of updating and refreshing the Label Review Manual, including correcting updating where changes have occurred, adding a table of contents to each chapter, reorganizing sections and subsections, updating hyperlinks and changing to plain writing style (where possible). Chapter 1 was completed in 2016, with more nearing completion (2, 3, 15 and 16 are the next in line, as well as some updates to language in Chapter 10).

View the Label Review Manual at <https://www.epa.gov/pesticide-registration/label-review-manual>. Submit any suggestions to the Labeling Consistency Committee mailbox (<https://www.epa.gov/pesticide-labels/forms/pesticide-labeling-questions-answers-form>).

### **Cooperative Agreement to Train Healthcare Providers**

On May 22, we issued a request for applications from eligible parties to manage a cooperative agreement to help educate the medical community on how to recognize and treat pesticide-related health conditions. The long-term goal of the project is to achieve improved health for communities at risk for overexposure to pesticides through outreach, technical assistance and training to increase knowledge and awareness of environmental and occupational health risks. Proposals are due by July 20, 2017. More information is available at <https://www.epa.gov/pesticide-worker-safety/proposals-requested-cooperative-agreement-train-healthcare-providers>.

### **New Bed Bug Product Performance Test Guideline Available**

On June 14, 2017, the notice of availability for the new product performance test guidelines for bed bugs, “810.3900 Laboratory Testing Methods for Bed Bug Pesticide

STATE FIFRA ISSUES RESEARCH & EVALUATION GROUP (SFIREG)

FULL COMMITTEE MEETING

JUNE 26-27, 2017

U.S.EPA, POTOMAC YARDS, CRYSTAL CITY, VA

Products” was published in the Federal Register. This guideline provides recommendations to registrants for design and execution of laboratory studies to evaluate the performance/efficacy of products intended to repel, attract or kill bed bugs.

The pesticide industry requested that EPA develop this guideline to clarify methods for studies testing the efficacy of pesticide products against bed bugs. We presented the draft guideline to the Scientific Advisory Panel (SAP) in 2012 and incorporated comments received from the SAP and the public into this final guideline.

The Federal Register notice is available at <https://www.gpo.gov/fdsys/pkg/FR-2017-06-14/html/2017-12347.htm>.

The guideline is available at <https://www.epa.gov/test-guidelines-pesticides-and-toxic-substances/series-810-product-performance-test-guidelines>.

### **Exposure Modeling Public Meeting**

On June 28, 2017, OPP’s Environmental Fate and Effects Division will hold an Exposure Modeling Public Meeting (EMPM) in the first floor conference center of Potomac Yards South from 9:00 AM to 4:00 PM. The EMPM is a public meeting held biannually for presentation and discussion of current issues related to pesticide fate, transport, and exposure for risk assessment in a regulatory context. Presentations are by both EPA staff and external stakeholders. The major theme is subsurface metabolism for the June meeting, but presentations on runoff curve number estimation, biphasic degradation, abiotic hydrolysis, and updates to the Spatial Aquatic Model (SAM) and Pesticide Water Calculator (PWC) are also included. For more information about this meeting, please see the Federal Register Notice at [www.regulations.gov](http://www.regulations.gov), docket document number EPA-HQ-OPP-2009-0879.

### **DISCUSSION REGARDING PASS THROUGH INSECTICIDES AS FEED ADDITIVES**

Jeff Comstock, VT

Please see accompanying presentation.

Comstock described the issue concerning application of pesticides occurring at the feed plant. Questions include whether or not this is production? Are the feed plant staff licensed as applicators? Are they now dealers? Is there communication between the feed and pesticide programs?

Approximately 5 million tons of feed with insecticide was used per year in Vermont. There is a discrepancy in the feed rules which say that if the product is applied to medicated feed it is considered exempt from pesticide regulation, but if the product is applied to nonmedicated feed it is not exempt. This calls into question the original

STATE FIFRA ISSUES RESEARCH & EVALUATION GROUP (SFIREG)

FULL COMMITTEE MEETING

JUNE 26-27, 2017

U.S.EPA, POTOMAC YARDS, CRYSTAL CITY, VA

exemption, asking why is there a difference due to the presence of antibiotics? Comstock would like to see a dialogue between EPA and FDA and have SFIREG sit in on the discussions. OECA said that in the past they have expected this type of use to be treated as a pesticide. Another difference is related to repackaging vs. custom blends.

Giguere asked Drake to follow up with POM and possibly an issue paper.

**PESTICIDE OPERATIONS AND MANAGEMENT WORKING COMMITTEE UPDATE**

Tim Drake, SC, POM Chairperson

Current issues POM is working on include:

- Updates to the 24(c) and 18 guidance, as well as updates to the Label Review Manual
- Unregistered products and devices
- Biostimulants
- Antimicrobials claiming pesticidal activity
- Would like updates on chlorpyrifos and the 2018 PACT
- Kaput for feral hogs and wildlife concerns
- Dicamba, including 24(c)s
- Input or consultation on Global Harmonization Labeling, which should include a POM representative

New Issues include:

- Alternative brand name tracking, and would like SLA access to an EPA site for information

**ENVIRONMENTAL QUALITY ISSUES WORKING COMMITTEE UPDATE**

Gretchen Paluch, IA, EQI Chairperson (by telephone)

- Survey POINTS contact within the states for feedback on how POINTS is used in state water quality programs. EQI committee has put together an initial listing of some of the current uses by states and highlighted areas for future input as part of the POINTS transition. Recall there was formal summary prepared on revisions to POINTS back in 2015 that focused more on technical features. Aim here is to

STATE FIFRA ISSUES RESEARCH & EVALUATION GROUP (SFIREG)

FULL COMMITTEE MEETING

JUNE 26-27, 2017

U.S.EPA, POTOMAC YARDS, CRYSTAL CITY, VA

incorporate utility to states as well as federal partners. Integrate feedback from water quality PREP (May 2017) to develop survey. Timeline is send out approx Aug 1 and have results for JWC meeting in Sept.

- EQI breakout session at upcoming Water Quality PREP – discussion on benchmarks (including examples from states ; providing ai examples) as well as decision-making (when and how do states make decisions to act). To include background and or definitions related to MCLs health advisories, HEBS, etc. This took place at water quality PREP in May. SLAs continue to request assistance with resources (webinars for incoming program staff) and communication with federal partners.
- Redistribute review on plant back restrictions that was conducted by the Maine Board of Pesticides Control to committee for review and connect with USDA-NRCS RE: Cover Crop Standard Practice (regional level). Bring back to next meeting.
- Engaged AAPCO Laboratory Committee to provide feedback on lab methodology for pesticide groundwater and surface water monitoring. Will email group prior to bimonthly call to request additional questions from EQI members RE: cost, detection limits, turnaround time, etc.
- EQI to approach sister agencies RE: networking with respect to EQI issues (USDA, US Fish and Wildlife, Office of Water, US National Resource Marine Council)

**TOLERANCES VS ACTION THRESHOLDS ON CANNABIS, COLORADO WHITE PAPER**

Presented by Hank Uhden, WY, Region 8 Representative

Please see accompanying paper. The committee discussed the issue paper and agreed that there are issues with non-pesticide agencies utilizing non-tolerance action thresholds. The committee decided to continue exploring the issue at this time.

**PESTICIDE USE ON MARIJUANA 24(C)**

George Farnsworth, CA, Region 9 Representative

EPA has previously encouraged the states to develop 24 (c) registrations to address pesticide needs of cannabis production. The states worked for over a year ensuring that complete and thorough registrations for several low risk products were developed with the registrant and were recently submitted to EPA as state approved. In the week prior to this meeting, EPA's Administrator Pruitt sent a letter to these states saying that he intended to cancel the registrations. The rationale was that Cannabis is still federally illegal, although he did not dispute the actual registrations. An example of the letter accompanies these minutes and may be found on the Cannabis section of the website. This session melded with the above session and there was robust discussion. Some of the other states weighed in on their current situation: SC will test hemp for any residues

STATE FIFRA ISSUES RESEARCH & EVALUATION GROUP (SFIREG)

FULL COMMITTEE MEETING

JUNE 26-27, 2017

U.S.EPA, POTOMAC YARDS, CRYSTAL CITY, VA

other than 25(b) products and will destroy any product with residues; MA allows OMRI products, and in November 2016 Recreational Use of Cannabis passed in the state; NY says they are allowing generic labels to be used; CO said that since 24(c) is now closed what are the other options?-broad label language/ tolerances for tobacco/ tolerances for food; OR has a guide list, mainly 25(b) and are having issues with their health departments action thresholds which are not based on tolerances.

Kevin Ambrust, LSU, emphasized that not addressing these issues will result in a health issue or tragedy. Cofer, AL, said that this is setting people up to break the law. Drake offered that national legality is a primary issue that needs to be addressed. Farnsworth said that we need a priority scheme moving forward, as California has invested a huge amount of resources in this effort.

Giguere will organize a 24(c) call with the recipients of the letter. AAPCO will consider a workgroup to include AAPCO, NASDA, Health Departments, and interested pesticide registrants.

**REGULATOR IN RESIDENCE**

Emily Ryan, U.S. EPA OPP/FEAD

Please see accompanying presentation

**KAPUT WILD HOG CONTROL; WHERE STATES ARE WITH REGARD TO REGISTERING THE PRODUCT**

Pat Jones, NC, Region 4 Representative

Jones described how the registration package, which arrived in many southern states this spring, was a surprise. For a registration of this type, many state level agencies, including wildlife managers and veterinarians, need to be involved and in communication. Concerns include scavengers, secondary poisoning, non-target impacts, securing the feeders, carcass removal, and questions relating to if hog behavior changes due to poisoning prior to death.

Ryan Williams, OK, said that these issues are the same in the more mid/south western states. The product was registered in Texas, until there were issues and the registrant cancelled the registration. There is now a pending lawsuit. The LA Department of Wildlife tested the feeders and found that black bears had no problems accessing the feeders.

The label instructs the user to 'be in contact with appropriate state authorities', which is a very unspecific requirement. Another state level issue is that feral hogs are not listed as 'agricultural pests' by most states, and therefore coordinated state level control is not appropriate in this manner.

STATE FIFRA ISSUES RESEARCH & EVALUATION GROUP (SFIREG)

FULL COMMITTEE MEETING

JUNE 26-27, 2017

U.S.EPA, POTOMAC YARDS, CRYSTAL CITY, VA

Currently most Region 4 states have denied the registration, although AL and MS are stalled due to their state constraints. The American Fish and Wildlife Association has asked EPA to cancel the registration (letter accompanies these minutes).

**HOT TOPICS**

SFIREG Committee Members

WPS is delayed, but the Federal Register announcement has not been made. C&T has been formally delayed a year, and EPA has been sued for the delay.

WPS—AAPSE President Kerry Richards said that it is difficult to communicate on the issue, especially since it has not posted in the FR, and there may be additional changes to the final rule due to the regulatory reform efforts of the administration. Kevin Keaney, EPA/OPP said that the revised rule is in effect, and will propose and implement a date change, and will also need to re-implement the 1992 rule to cover the gap. Keaney also encouraged the states to continue aggressively working towards implementation. OECA will also issue a statement/guidance for how states could deal with this.

Giguere thanked Keaney and his staff for their responsiveness to the states over the years.

Jones identified the issue of electrostatic sprayers—they use small droplet sizes, which would be out of compliance with the AEZ in the new WPS, but are more protective of drift reduction than traditional large droplet size strategies. Jones feels it is important to not impact growers who are using newer technologies that are improvements by getting them hung up in prescriptive regulations, and hopes to see the issue addressed in the rule.

AAPCO intends to actively continue with the C&T workgroup and the WPS standing committee as we move forward during this period.

**PRE-SFIREG REGIONAL REPORTS**

SFIREG Committee Members

Please see the accompanying reports; below are some additional notes from the discussion.

Region 3: Lance Wormell, EPA/OPP/FEAD will clarify the DfE vs. Safer Choice issue.

Region 5: suggestion to consider Capt. Mike Wilson for a presentation on the use of UAV aircraft in agriculture.

Region 6: Dicamba issues in Arkansas have continued to increase. At the time of the presentation, Arkansas had 260 complaints, many of them due to Dicamba use. (At the time of this writing, July 12, 2017, Arkansas has over 500 complaints, many of them due

STATE FIFRA ISSUES RESEARCH & EVALUATION GROUP (SFIREG)

FULL COMMITTEE MEETING

JUNE 26-27, 2017

U.S.EPA, POTOMAC YARDS, CRYSTAL CITY, VA

to Dicamba use). Arkansas banned the acid form of Dicamba in January 2017, and now has limited all use to range and pasture only.

**ASPCRO REPORT**

Liza Fleeson Trossbach, VA, ASPCRO President

Please see accompanying presentation.

**PPDC UPDATE**

Liza Fleeson Trossbach, VA, AAPCO's Liaison to PPDC

Please see accompanying presentation.

NOTE: the PPDC has been developing metrics for EPA to use in evaluating state MP3s. EPA asked SFIREG to discuss this in further detail on Tuesday June, 27<sup>th</sup>, and that presentation and notes follow these minutes. It was mistakenly asked to be a closed-door meeting between the states and EPA. As the meeting was not only attended by SLAs and EPA, but included many folks from PPDC, including industry, SFIREG will make the presentation and notes available publically and we apologize for the misunderstanding to our public who attended the meeting.

**TPPC UPDATE**

Fred Cory, Aroostook Band of Micmacs, TPPC Chairperson

TPPC has reviewed the draft strategic objectives for EPA's Pesticide Program Guidance. They want to have TPPC priorities within the objectives to increase needed resources for the tribes.

**AAPSE UPDATE**

Kerry Richards, AAPSE President

AAPSE's next annual meeting will be in Fargo, ND on July 26<sup>th</sup>. Some important topics include respirators and cannabis. To attend there is no registration fee, but the \$50/annual AAPSE dues. Richards also presented for NPSEC, saying that they have demo projects for online trainings, and in late summer will have respirator trainings for Train the Trainer and medical evaluations.

**AAPCO REPORT**

Tony Cofer, AL, AAPCO President

STATE FIFRA ISSUES RESEARCH & EVALUATION GROUP (SFIREG)  
FULL COMMITTEE MEETING  
JUNE 26-27, 2017  
U.S.EPA, POTOMAC YARDS, CRYSTAL CITY, VA

Cofer thanked past president Bonnie Rabe for her service to the association. She has done a lions share of our work in recent years as POM Chair and on various committees, and we are going to miss working with her.

Being part of SFIREG for 7 years and now as AAPCO President, Cofer is looking forward to building new relationships, and partnering with ASPCRO, AAPSE, NASDA and Industry to build common ground. Cofer also thanked Tim Drake, SC, for stepping up as the new POM Chairperson, and is looking forward to continuing to work together. Cofer thanked Fleeson Trossbach as well, as she is now representing AAPCO as our liaison to PPDC, and has been a strong partner to AAPCO in her role as ASPCRO President.

The AAPCO Board is starting to work on the agenda for the 2018 Annual Meeting, which will be held in Alexandria, VA in March 2018.

Committee updates for AAPCO include a new 25(b) Workgroup to help develop uniform cross-state requirements for registration; the Legislative Affairs Workgroup is reforming and will be active in the near future; the C&T Workgroup will be renewed to serve during the delay and implementation period; and Steve Dwinell, FL and Rose Kachadoorian, OR will continue to co-chair the Pollinator Protection workgroup.

The meeting adjourned at 4:30pm

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Tuesday June 27, 2017

EPA requested a closed door session for states and EPA to discuss pollinator protection issues. The session was actually a presentation by PPDC representatives, primarily from Syngenta and the National Cotton Council, regarding an effort by PPDC to develop metrics for use by states to evaluate state MP3s. The PowerPoint presented during the meeting is included in the presentations section of these minutes on the website.

There were two main points of discussion brought up by the states:

1. The metrics PPDC developed included a ranking system using points, which were assigned to various efforts states may undertake and weighted somewhat to reflect PPDC's perspective of their value. The states in attendance at both the previous PPDC meeting, and at this meeting did not agree with this approach. The states believe that it is not appropriate to compare state MP3s as each state has very different situations related to pollinator protection, and a ranking system comparing each state across the country is counter to the original premise of the MP3s.
2. SFIREG's working committees spent a year developing metrics for the states to use in evaluating their MP3s. The metrics developed and then approved by the Full SFIREG committee include metrics that can be used by EPA to evaluate the MP3s success in promoting pollinator protection. It is unclear why the PPDC has undertaken this effort that is directly focused on state plans. PPDC is a Federal

STATE FIFRA ISSUES RESEARCH & EVALUATION GROUP (SFIREG)

FULL COMMITTEE MEETING

JUNE 26-27, 2017

U.S.EPA, POTOMAC YARDS, CRYSTAL CITY, VA

Advisory Committee, and as such can advise EPA on EPA's work to protect pollinators, but it does not advise the states in their work. It does not seem appropriate that PPDC should undertake an effort to do so. The MP3s are voluntary state plans, while EPA's pollinator protection efforts consist of national level decisions that support pollinator protection across the country. Conflating the two will create confusion and mistrust. SFIREG respectfully asserted that PPDC's current direction is not supported by the states.

DRAFT