

# Addendum to the Guidance for Requesting Analytical Support from the OPP Analytical Chemistry Branch (ACB), BEAD, OPP, EPA

The Office of Pesticide Programs is providing laboratory assistance to affected states/regions in analyzing dicamba and its major metabolites and has issued guidance for making these requests.

With this addendum, we are clarifying which sample seals (and other forms) should be used on the submitted samples. Where a request for analytical support from OPP ACB is being made, use the sample seals (and other forms) associated with the authority used to conduct the inspection. This is consistent with EPA's FIFRA Inspection Manual; the pertinent excerpt is below:

## WHEN TO USE FEDERAL CREDENTIALS/FORMS/SOPS

An inspector must **never** use both state or tribal authority and federal authority for the same inspection.

## USING STATE/TRIBAL CREDENTIALS, FORMS AND PROCEDURES

A state inspector must always use state authority, state credentials, state forms and state procedures when conducting inspections where the state has primacy. If the inspector initiates an inspection under state/tribal authority but discovers possible federal, rather than state, violations, the state may refer the federal violations to EPA for further investigation and/or enforcement action. Tribes should use their own credentials when they have authority under their laws and codes to conduct the inspection. Similarly, a tribe may refer any suspected federal violations to EPA for further investigation and/or enforcement action.

## USING FEDERAL CREDENTIALS/FORMS/SOPS

The state or tribe must use federal credentials/forms/procedures when conducting inspections that they do not have the authority to conduct under their own state laws or tribal codes or in instances where EPA makes a formal referral to the state or tribe to investigate on behalf of the Agency. Tribes should use federal credentials to inspect where the tribe lacks its own authority or where it lacks authority to monitor and enforce Federal-only requirements. Generally, tribal inspectors will be authorized to conduct inspections on EPA's behalf only within the boundaries of the tribe's Indian Country.

Even with EPA credentials, states are not authorized to conduct inspections on tribal lands unless allowed by a written agreement between the tribe and the state.

When states or tribes with cooperative enforcement agreements use federal credentials, federal inspection forms and federal inspection procedures, the inspector must send the original inspection report and files to the applicable EPA office. The state or tribe may retain a copy of the file, to be used if asked to participate in EPA's enforcement actions. It should be noted that federal law, including FOIA and the requirements pertaining to CBI, apply when states or tribes are conducting any inspection using federal credentials (see Chapter 1).