

STATE FIFRA ISSUES RESEARCH & EVALUATION GROUP (SFIREG)
FULL COMMITTEE MEETING
DECEMBER 4-5, 2017
U.S. EPA, POTOMAC YARDS, CRYSTAL CITY, VA

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

Monday December 4, 2017 8:30 am

U.S. EPA OFFICE OF PESTICIDE PROGRAMS UPDATE

Yvette Hopkins, EPA/OPP/FEAD

EPA Guidance on Managing Pesticide Resistance

www.epa.gov/pesticides/epa-guidance-managing-pesticide-resistance

EPA has released two Pesticide Registration Notices (PRNs) aimed at combating pesticide resistance.

- PRN 2017-1, “Guidance for Pesticide Registrants on Pesticide Resistance Management Labeling” offers general guidance on resistance management labeling for all conventional agricultural insecticides, fungicides and herbicides.
- PRN 2017-2, “Guidance for Herbicide Resistance Management Labeling, Education, Training, and Stewardship” focuses specifically on herbicides and provides guidance on labels, terms of registration, education, training and stewardship.

EPA is focusing first on holistic guidance for herbicides. Herbicides are the most widely used agricultural chemicals, and no new herbicide mechanism of action has been developed in the last 30 years, while herbicide-resistant weeds are rapidly increasing. In the future, the Agency plans to evaluate other types of pesticides (e.g., fungicides, bactericides, insecticides and acaricides) to determine whether and what types of guidance may be appropriate for those types of pesticides.

Updated Pesticide Label Review Manual Now Available

www.epa.gov/pesticides/updated-pesticide-label-review-manual-now-available

EPA has updated Chapters 15 and 16 of the [Pesticide Label Review Manual](#) (LRM). This manual began as a guide for EPA label reviewers, and now it also serves as a tool to assist EPA's stakeholders in understanding the pesticide labeling process. The LRM is also useful in understanding approaches for how labels should generally be drafted.

Methods and Guidance for Testing the Efficacy of Antimicrobials against Spores of Clostridium difficile

www.epa.gov/pesticides/methods-and-guidance-testing-efficacy-antimicrobials-against-spores-clostridium-difficile

EPA is announcing the availability of test methods for evaluating the efficacy of antimicrobial pesticides against *Clostridium difficile* as well as regulatory guidance for

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pesticidal claims for those products. These test methods and guidance provide a framework for registrants who seek to make a claim for antimicrobial pesticide products to control these spores on hard, non-porous surfaces.

Clostridium difficile is an anaerobic, spore-forming bacterium and a frequent cause of hospital-acquired infections. The spores survive on hard surfaces such as glass, metals, and plastics, which are commonly found in health-care settings. Antimicrobial pesticides are used to reduce the number of spores on environmental surfaces.

FDA Issues Final Guidance Clarifying FDA and EPA Jurisdiction over Mosquito-Related Products

www.epa.gov/pesticides/fda-issues-final-guidance-clarifying-fda-and-epa-jurisdiction-over-mosquito-related

The U.S. Food and Drug Administration (FDA) finalized guidance to provide information on FDA and U.S. Environmental Protection Agency (EPA) jurisdiction over the regulation of mosquito-related products intended to function as pesticides, including those produced through the use of biotechnology.

EPA and States' Collective Efforts Lead to Regulatory Action on Dicamba

www.epa.gov/pesticides/epa-and-states-collective-efforts-lead-regulatory-action-dicamba

EPA has reached an agreement with Monsanto, BASF and DuPont on measures to further minimize the potential for drift to damage neighboring crops from the use of dicamba formulations used to control weeds in genetically modified cotton and soybeans. New requirements for the use of dicamba "over the top" (application to growing plants) will allow farmers to make informed choices for seed purchases for the 2018 growing season. Manufacturers have voluntarily agreed to label changes that impose additional requirements for "over the top" use of these products next year. Additionally, manufacturers have agreed to a process to get the revised labels into the hands of farmers in time for the 2018 use season. EPA will monitor the success of these changes to help inform our decision whether to allow the continued "over the top" use of dicamba beyond the 2018 growing season. When EPA registered these products, it set the registrations to expire in 2 years to allow EPA to change the registration, if necessary.

New EPA Quick Guide for Registering Disinfectant Products for Drinking Water Use

www.epa.gov/pesticides/new-epa-quick-guide-registering-disinfectant-products-drinking-water-use

EPA developed this [Quick Guide for Disinfectant Products for Drinking Water Use](http://www.epa.gov/pesticides/new-epa-quick-guide-registering-disinfectant-products-drinking-water-use) in response to requests to help prospective pesticide registrants gain a basic understanding of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) product registration process and how it relates to the Safe Drinking Water Act (SDWA) requirements. We have used a graphic to help show the jurisdictional authorities of the two statutes and general steps to take under both laws.

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EPA Registers the Wolbachia ZAP Strain in Live Male Asian Tiger Mosquitoes

www.epa.gov/pesticides/epa-registers-wolbachia-zap-strain-live-male-asian-tiger-mosquitoes

EPA registered a new mosquito biopesticide – ZAP Males® - that can reduce local populations of the type of mosquito (*Aedes albopictus*, or Asian Tiger Mosquitoes) that can spread numerous diseases of significant human health concern, including the Zika virus.

ZAP Males® are live male mosquitoes that are infected with the ZAP strain, a particular strain of the *Wolbachia* bacterium. Infected males mate with females, which then produce offspring that do not survive. (Male mosquitoes do not bite people.) With continued releases of the ZAP Males®, local *Aedes albopictus* populations decrease. *Wolbachia* are naturally occurring bacteria commonly found in most insect species.

This time-limited registration allows MosquitoMate, Inc. to sell the *Wolbachia*-infected male mosquitoes for five years in the District of Columbia and the following states: California, Connecticut, Delaware, Illinois, Indiana, Kentucky, Massachusetts, Maine, Maryland, Missouri, New Hampshire, New Jersey, Nevada, New York, Ohio, Pennsylvania, Rhode Island, Tennessee, Vermont, and West Virginia. Before the ZAP Males® can be used in each of those jurisdictions, it must be registered in the state or district.

Jackie Mosby, EPA/OPP/FEAD presented WPS and C&T Updates, saying that EPA is currently considering comments from the Regulatory Reform docket related to the two rules. Mainly minimum age requirements, designated representative and AEZ for WPS, and minimum age for C&T. Any changes to the rules will go through comment periods. She will provide a timeline for the C&T rule, and it will be posted in relation to these minutes when it is received.

There was a fair amount of discussion on the Mosquito Mate product, and Giguere asked the Joint Working Committees to look into the registration during their April 2018 meeting.

SFIREG Grant Update

Emily Ryan, SFIREG Project Officer, EPA/OPP/FEAD

Ryan let the committee know that the grant is currently under review in the Office of Grants and Debarment, and that the existing grant has been extended to February 28, 2018.

POM Report

Tim Drake, Clemson University, POM Chairperson

Lamanno asked if cooling towers and similar uses were included in the ozone water treatment discussion. Drake said he would add that with Giguere's consent, which he received. Kerry Richards added pools as another use. LaScola added that they have questions on dry ice, CO and CO2 products and their registration program is unclear on how to determine if the products are pesticides. Hopkins offered that EPA has a device determination workgroup and they are addressing that question. She also thanked NM and IN for their input on the issue. Giguere added that these products are outside of what states typically regulated, but do have the potential for harm.

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Mosquito Mate
EPA/OPP/BPPD

After the OPP Report, EPA asked a risk assessor to come down and speak more about the Mosquito Mate product. We learned that EPA is regulating the microorganism, which is a bacterium inserted into a sterile male mosquito. The males and females are then infected after breeding, but the offspring will not survive. Giguere asked how the states on the label were selected, as some states do not have the particular species of mosquito naturally present. We were told that they used CDC maps and NOAA weather data to determine where the mosquito could live.

Oregon White Paper on Pesticide Contaminants
Rose Kachadoorian, OR

Please see the attached PowerPoint, white paper and related documents.
The committee voted on Tuesday December 5, 2017 to send the issue to POM for the April 2018 meeting.

Ingredient Transparency
Phil Klein, Reckitt Benckiser

Please see the attached PowerPoint.
Klein explained that this issue has been around a long time and that industry is ready to solve it. Right now there are State Attorney Generals who have petitioned EPA for ingredient disclosure, advocacy groups are actively involved, and major retailers are demanding ingredient transparency on labels. RB and others worked on a pilot project for ingredient disclosure for antimicrobial products.
Klein asked for a state-EPA workgroup to put inerts on the label and to develop consistency across state registration programs.
Cofer was concerned about retailers dictating what is on a label. Hopkins will work with the three EPA registration divisions and PRD to participate in a workgroup. POM and Ee White, IN will be involved.
Cofer and Drake are concerned about how this effort changes FIFRA Section 3. Giguere believes it can be worked out.

Colorado Cannabis White Paper

The request is for EPA to reach out to state governors in states that have medicinal or recreational cannabis, including hemp, to ensure that action levels or thresholds are not developed outside of the pesticide state lead agency. Additionally, EPA and FDA should establish that cannabis is considered a food crop. Therefore there should be no products used since there are no tolerances established in CFR.
Giguere and Drake will draft a letter for NASDA to describe regulatory preemption.

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FDA Statement on Pass-Through Insecticides

Cary Giguere, VT, SFIREG Chairperson

Giguere reviewed the situation for the full committee, such that the registrant of the pass through insecticide and feed manufacturers said this is a medicine and therefore was not subject to FIFRA. During the September 2017 JWC meeting, FDA stated that this use does fall under FIFRA. Therefore FDA and EPA OECA agree that the pesticide requires an applicator's license and a producing establishment number for feed manufacturers to include it in feed for sale.

Giguere will write up an informatory letter to share with states on the matter.

Tribal Pesticide Program Council Report

Fred Corey, Aroostook Band of MicMacs, TPPC Chairperson

Corey explained that TPPC is focusing on Pruitt's draft administrative plan, including the following areas:

- Requiring EPA to redirect themselves to fulfilling their statutes
- Increasing tribal pesticide program capacity
- More cooperative agreements with tribal governments
 - EPA direct implementation is not effective, and is typically only responsive to complaints.
 - Corey sees this area as part of cooperative federalism, and wants to see tribes directly implement their own pesticide programs.
 - EPA has turned down tribal requests for cooperative agreements due to a lack of funding for the grants.
 - EPA has also told some tribes that they are too small to have programs
 - TPPC has significant concern about public health issues when EPA isn't directly implementing the programs as they were intended, and pointed to the issue with fumigation misuse in the Virgin Islands as an example.

Dicamba Debrief

Reuben Baris, EPA/OPP/RD

Tony Cofer, AL, AAPCO President

Cofer began by saying states have been concerned about this registration for five years. All of their concerns have come to pass. The rollout was difficult with the seed coming out first, and that created misuse issues. Many states have had a significant caseload increase and having the labeled product available did not lesson the issue. We have over 3,000 complaints nationally in 2017. Science is still out on if the main issues are product related or misuse. Many extension programs have been tracking and researching the issues. It is still unclear. In the fall of 2017 EPA did try to mitigate the issue by negotiating label changes. AAPCO and SFIREG tried to get as much mitigation language on the label as possible.

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Baris detailed that the two major changes are the RUP status and the mandatory training requirement. State 24(c)s helped to bring to light some of the label deficiencies and that is where the majority of the label changes came from, to make sure that we are nationally consistent. Some other changes include windspeed decrease and clarified buffer language. Moving into 2018 EPA is looking to work closely with the states and university weed scientists.

Cofer said that the next hurdle is how or what the states are going to do with the training requirement. States need to be having those conversations now.

State/extension/registant training are major undertakings. Do the states have the resources to have the negotiations with the registrants?

Dave Scott, IN, asked if drift mitigation we are seeing on the dicamba label is a model for other labels moving forward? Baris responded that dicamba is unique, and they are reactively addressing issues. Risk managers have to be creative for the phenoxy's, but it is still dealt with on a case by case basis. Scott responded that the labels are not all that different in bulk. Some of the restrictions are huge. IN doesn't want to trust the training to registrants. IF you comply with all of the labels restrictions, etc., (and the key concepts are not really understood well by the registrants even), legal applications are very limited. IN determined that there were 44 total hours to apply in June 2017, before wind was considered. This is changing the way applicators do business.

- The violations being found in the IN cases are not responsible for the damage.
- Is the product misbranded?
- Does the product have sufficient restrictions?

Kerry Richards said that AAPSE is very concerned. Both developing training as well as from a liability standpoint.

- Seeing weed scientists attacked by the registrant is an issue.

Cofer would like to have AAPCO and SFIREG review the registant training to look for deficiencies, to take some of the pressure off of individual state programs.

Richards brought up the fumigation training toolbox, and asked if that could be a model used in this situation. Baris replied that it was to some degree, and described the label training requirements.

There is concern about consistency regarding training.

Pat Jones, NC, said that they found the difference between a 10 mph and a 15 mph windspeed increased drift by 2 in distance. Unreported damage is a big issue, one that will likely break open in 2018 as producers cannot withstand another year of damage. He also said he would like to see recordkeeping per field, and a better job of getting labels into the hands of applicators.

Baris added that in 2018 we need to document impacts on other crops and landscapes.

Cofer asked Baris what success with this label looks like in 2018. What is the threshold where the benefit is not worth the risk? Baris turned the question back to him. Giguere stepped in, saying:

- Success is not having farmer on farmer damage

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- Can applicators make the application stick? If not, then this is a product issue.

Carol Black, WSU, added that in addition to volatility, 2,4-D research in WA suggests it could atmospheric deposition as well.

Regional Reports

SFIREG Committee Members.

Please see attached reports.

Areas of common interest and discussion:

- R4 brought up the issue of ESA bulletins not being specific enough.
- R8 brought up the issue of ESA bulletins existing for species which are now delisted or in experimental status (changes made since the bulletins were developed)
- R8 requested that SFIREG look into Amine 4, 2.4-D label language related to wind and non-target species.
- NC has approved/licensed the use of drones for pesticide applications made to phragmites.
- Several regions stated that cases referred to the region or done under federal credentials were taking too long to be finalized.
- R6 brought up concerns related to imports, the new ACE electronic system replacing Notices of Arrival, and concern that the region will not be able to review pesticide labels prior to the marketplace.
- Several states shared concern about requests in the cooperative agreements for budgeting travel details which are in advance and therefore not known in specific detail.

AAPSE Update

Kerry Richards, President

There are a lot of questions related to WPS and C&T right now in the PSEP community. There are also concerns that EPA is not using sound science in their decision making right now.

The withheld PSEP funding from the past two years is coming through NPSEC, utilizing a web application. They are hoping to have the funds distributed by January 2018, a remarkable turnaround time by any measure. NPSEC is also selling PERC materials in support of the WPS and C&T rules.

ASPCRO Report

Liza Fleeson Trossbach, VA, ASPCRO Past-President

Please see attached presentation.

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PPDC Update

Liza Fleeson Trossbach, VA, AAPCO PPDC Liaison

Please see attached presentation.

Tuesday December 5, 2017 9:00 am

Pollinator Protection Plan Measures

Meredith Laws, EPA/OPP/RD

Rose Kachadoorian, OR, PPDC Member

Please see attached presentation.

PPDC has approved this approach. Kachadoorian presented the components of the measurements, which will be included on a survey for states.

Emphasis on the idea that each state is doing something different and that is fine. The metrics are not prescribed but intended to capture what the states are doing. It is possible other state plan components, such as protection for native pollinators, will be captured as well.

Drake suggested capturing non-pesticide related bee kills as well, to present a more complete picture. There was a fair amount of discussion of the survey being limited to pesticide related issues. Suggestion to call the survey something other than MP3, such as pollinator health. Also a suggestion to include a question if state is mostly hobby or managed bees.

Laws clarified that the workgroup's charge was to measure MP3s only. That is limited but there are open ended questions in the survey that allow for flexibility.

Prior to the survey going out, states can add to/make suggestions/view the survey. Send comments to Kachadoorian.

AAPCO Report

Tony Cofer, AL, AAPCO President

I would like to start off by saying thank you to SFIREG and specifically the Regional Reps for your service this year. It has been an extremely busy time in pesticide regulation and your efforts are critical to the mission of AAPCO.

Lots of change this year within AAPCO. Our president resigned at the end of May. I assumed the role of president in June of this year. The way the bylaws are written, the president elect served out the remainder of the term and then can serve their own term. We added a new board member. Derrick Lastinger from the Georgia Department of Agriculture. Nominations for the AAPCO board will be requested soon, and we hope you will consider participating.

The current board members may be found [here](#).

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Liza Fleeson Trossbach is our representative on the PPDC.

We have also had changes in the leadership of SFIREG with the addition of Tim Drake as POM chair and we have a vacancy for EQI Chair with Gretchen Paluch's resignation.

With changes in leadership, EPA, AAPCO, SFIREG and ASPCRO have continued a series of meetings call the Learning Exchange between EPA leadership and AAPCO and ASPCRO Leadership. It is an opportunity to understanding how AAPCO and SFIREG interact with EPA to help inform the implementation process for FIFRA programs. It also gives the states the opportunity to understand the organization and processes within EPA. We have currently been meeting with FEAD and OPP. We are going to continue those meetings but expand to other areas within EPA

AAPCO has been in existence since 1947. We as a board are looking to update our bylaws to get them in line with current operation procedures. As we propose modernization and updating of our internal procedures we will include the states prior to our annual meeting when states will be given the opportunity to vote on these changes

AAPCO has spent a great deal of time on the issues surrounding Dicamba. We have been involved with the enforcement case tracking around the country. We were also involved in the review and comment on Dicamba labels. The changes to the Dicamba labels were approved in the fall of this year, and we have been gathering information related to the training requirement on the new labels. These changes include the training of every applicator annually. EPA is not involved in the approval of the training or its components. AAPCO has been collecting Dicamba related information at aapco.org.

AAPCO's committees continue to monitor C&T and WPS as full implementation nears and the regulatory reform docket comments are reviewed by EPA.

AAPCO took the opportunity to get involved in the MP3 Metrics workgroup formed by PPDC. We now have new measures in the form of a short survey that we feel would be acceptable to the majority of states.

I appreciate everyone responding to the survey we send out. It is very important to helping inform our decision making process.

Lastly please mark your calendar for the AAPCO Annual Conference March 4-7 2018 in Alexandria Virginia at the Hilton Old Town.

I would ask the SFIREG regional reps to reach out to your states in the near future. We are strongly and more effective when we have everyone speaking in one voice.

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Synthetic Auxin Herbicide Training

Dan Kenny, EPA/OPP/RD
SFIREG Committee Members

1. What does the label statement on training mean? Page 4 states the registrant, state or state-authorized provider can give the training. For 2018 every applicator must be trained, even those working under the supervision of a certified applicator.
2. EPA did not approve the registrant training and has no criteria which must be followed.
3. States have to make decision about who will provide the training.
4. Do states approve of the registrant training? Are you going to ask for it to be modified for your state?
5. Some extension programs are finding value in this process. This is a critical year and will determine whether the products will keep their registrations.
6. The training is required annually, despite one label not explicitly states so.

Lastinger said he supports flexibility for states in training. Scott said IN is not accepting the registrant training therefore they are having issues with reciprocity agreements in neighboring states. This is not certification-it is a label requirement.

Bonnie Rabe, Orkin, asked if some of the states can assist the registrants directly to modify the trainings? Scott responded that he would be surprised if a registrant will include volatility in their training, and the states think that is very important to address. Jones emphasized that despite the burden of providing the trainings, the registrants just do not have the credibility compared to the extension researchers and educators. Black stated that training based solely on the label, without the 'whys', will not be effective.

Spagnoli emphasized the need for us to include the use of 'over the top' or similar language to differentiate these products from other Dicamba products.

Lastinger stated that the GA trainings have evolved so that extension agents are able to work one-on-one with applicators at this point. They are finding it useful.

Sullivan encouraged states to share their training decks for inclusion on the aapco.org website.

Wendy Bair Johnson of BASF stated they will not offer training in states that do not want it. Cofer added that the recordkeeping requires a record of state approved training. He advised states to make their intent clear now.

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e-Enterprise Label Matching Project

Dave Scott, IN

Please see attached presentation. Scott asked the committee if they were interested in a case management system for these inspection/marketplace data? There was support for the aspect that lets states know if there is a problem, so that other states can be forewarned of a potential issue.

11:45 am Giguere wrapped up the meeting and reviewed action items moving forward.

The meeting adjourned at 12:00pm.

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