

Region 10 Pre-SFIREG Meeting Report

November 12-13, 2019

In conjunction with the Annual Region 10 Pesticide Directors Meeting

Prepared by: Kelle Davis (WA)—Region 10 SFIREG Representative

Present were:

- Oregon--Rose Kachadoorian, Mike Odenthal, & Ann Ketter
- Alaska-- Bob Blankenburg
- Idaho—Vic Mason & Kevin Kostka
- Washington—Robin Schoen-Nessa, Joel Kangiser, Kelle Davis, Gary Bahr, Tim Schultz, Scott Nielson, & Christina Zimmerman
- Tribes-- Eric Gjevre (Coeur d'Alene/Circuit Rider), Joe Herrera (Yakama), & Holly Thompson Duffy (Indian Health Service)
- PSEP's-- Ronda Hirnyck, Kimberly Tate (University of Idaho), Carol Black, Wendy Sue Wheeler (Washington State University)
- EPA – Chad Schulze, Derrick Terada, Linda Liu (phone), Bethany Plewe, Nicholas Hurwit, Dirk Helder, Andrew Landry, Morgan Jenicus, & Katie McClintock
- Also: Garnet Cooke (Oregon OSHA) & Amy Cross (NPIC)

State / Tribe Briefing and Hot Topics

Alaska—

- Alaska requires permits to apply pesticides to water, and this year they were able to get general permit authority through their legislature. They were able to issue two general permits—one was for response to Elodea waterweed, and the other was for invasive northern pike in the south central area of Alaska. These general permits give greater flexibility and will help streamline and speed up the response to dealing with these invasive species. The general permit cuts out a lot of red tape, and the response time was reduced from 100 days to 15 days.
- Alaska adopted a new policy for efficacy requirements for 25(b) products on public health pests, especially bedbugs. They have had some pushback from registrants.
- Special interest groups/individuals alleging that mosquito control companies were causing bee mortality and were contacting the media and the legislature. The product being used by the mosquito control company these groups were blaming was pyrethroid. Because of legislative interests, they are expecting some bills to be introduced in session this year.
- Having cases/allegations of myclobutanil use in marijuana.

Oregon--

- Dale Mitchel unable to attend meeting. He was on his way up to the meeting, but had to be dropped off at the airport so that he could fly back to OR. OR had an issue where a helicopter accidentally spread ZP AG rodent bait pellets (a.i. zinc phosphide) into a residential neighborhood, possibly killing chickens and turkeys. The rodenticide was intended for an aerial application into an orchard.
- ODA's Compliance case backlog is being caught up. At one point they had over 300+ cases in backlog waiting for enforcement actions, some from 4 years ago. In addition, ODA had a lot of contested case hearings that tied up case review officer's time even more. In response, they adopted a new process where the case review officer reviews the case as soon as it comes in. If it looks like the case is going to end up being an enforcement action, the CRO contacts the person the enforcement action is going to be against and starts discussing a settlement agreement. This saves a lot of time of going through the notice process and going through the potential for the hearing. The CRO lays out the case to the violator, discusses the proposed settlement agreement, and if the

violator agrees, begins work to process the agreement. This process has worked very well--they are now down to about 150 cases.

- ODA has discovered an issue within Oregon law that limits their enforcement ability: They do not have the ability to detain or order destruction on non-food/non-feed crops. The discovery stems from the use of an unlabeled pesticide used on 600 acres of radish grown for seed. The producer knowingly did it, but because of the loophole in statute, ODA couldn't stop that product from going to market. ODA does not have the ability to force the seed to be labeled with information that it contained residues of a pesticide that does not have an established tolerance. ODA will be looking at new legislation to close that loophole. This may affect other states as well, and it might be prudent to check their laws.
- The issue above highlights one of the concerns with hemp. If it is not defined as a food crop, without tolerances, it will make it difficult for states to have any kind of detainment or embargo authority if pesticides have been illegally used on it. This is one of the reasons that APPCO wrote a letter to FDA urging it to be considered a food crop instead of a supplement or drug.
- Oregon implemented permanent rulemaking to prohibit the application of aminocyclopyrachlor on rights-of-way due to death and decline of valuable tree species that are/were growing near locations where the herbicide was applied. Received over 5000 comments--a record for ODA—prior to the permanent rulemaking. The rulemaking prohibits use on rights-of-way, natural areas, restoration areas, inner & outer area of banks of ditches and canals, anywhere where roots of non-target trees or shrubs may extend, and any aerial application. The US Forest Service ended up harvesting over 2100 trees, some of which were 500 years old. There is concern with what is going to happen with the timber, stumps, branches etc., and the possibility that aminocyclopyrachlor contaminated material will be introduced back into the environment. The stumps are possibly going to be ground-up, so ODA has taken post-harvest samples and is having bioassays done on the samples. They have not yet received results.
- Chlorpyrifos—three bills were introduced to the Oregon legislature last year. They were to do with prohibiting the sale, use and distribution of chlorpyrifos, making it an RUP, or requiring ODA to collect scientific data. (Similar to California--which would be difficult--Oregon does not have the amount of staff that CA does.) None of the rules passed, but Oregon is developing a rules advisory committee to discuss use patterns and routes of exposure. Oregon has taken note of California ending uses of chlorpyrifos: Oregon pays attention to what happens in CA and WA, because what happens in those states usually ends up in Oregon too.

Washington—

- Off target pesticide drift is a big issue, and in order to tackle the problem in a non-regulatory approach, they decided to conduct an “on-farm airblast sprayer calibration technical assistance pilot project.” They had two main goals: One was to provide farmers and their employees with basic and practical information on how to properly calibrate and configure their airblast sprayers in order to reduce pesticide drift. The second was to collect information about general pesticide application practices that farmers use when applying with airblast sprayers. They visited 7 farms (mostly tree fruit farms and vineyards), used the farmers equipment, and the visits were about 4 hours long. They offered the information in both English and Spanish, and asked that both employers and employees to attend. They used demonstrative and interactive training methods, and also provided the information electronically. The results were mixed: The farmers were very happy to receive the information, and especially liked the hands-on and demonstration methods and approach, and also reviewing the information electronically. However, most people attending had difficulty retaining the information, even though they used interactive training methods. Most people in charge of operating and calibrating the airblast sprayers did not have all the knowledge to perform those tasks. The equipment was very neglected and faulty, most operators did not know their application equipment (i.e. some people did not know they had pressure regulators or pressure gauges), and at every single farm that was visited had a sprayer with a faulty pressure gauge. WSDA learned a lot--learned that some of the farms they visited had never done any calibration ever. Two farms that were visited were unable to grasp the information presented. They left those facilities discouraged, because they knew that they would not be able to apply the information that they provided.

Overall, it was a great experience for them, and want to continue to offer this technical assistance service, but will have to make significant changes to the curriculum and how it is delivered. There is a lot of work to do in educating this industry in using airblast sprayers. As an airblast sprayer user himself, he knew there were problems, but the problems are a lot more significant than he expected.

- The other hot topic has to do with WPS training issues, and of not having training quality control measures established. WPS has no protocol for master trainers' preparation, no refresher requirements in place for master trainers, or train/trainers, there are no certification or recertification requirements for master trainers or train/trainers. Certified applicators and many employers are choosing to have their pesticide handlers get their pesticide license instead of going to a training. The problem with that (and this is an issue that has been going on for years) people in Washington can get their private applicators license without knowing anything about WPS. They get their license, but they don't get trained as WPS handlers in the new training requirements in the process of getting their license. On top of that—they can then train handlers. This is a significant problem. Another issue is that contract employees are getting trained up to 8 times in a period of 3 months, as they move from one farm to another during harvest season. They don't pay attention to the content of the training, and farmers are getting frustrated re-training farmworkers that have already been trained.
- Washington State Department of Agriculture has identical WPS rules between Department of Labor and industries (LNI) and Department of Agriculture—probably the only 2 instances in the state where 2 agencies enforce the same rules. By statute, WSDA is required to coordinate with LNI, and by an MOU they are required to have identical language. WSDA has adopted federal requirements, and has always had requirements that were more restrictive than EPA. When EPA updated their rules in 2015, a lot of those changes brought EPA up to the state's established standards. There were still instances where WSDA was more restrictive or more protective, so they carried those forward when they adopted the rules in 2018. LNI finally adopted their rules to match WSDA's last month, and those will become effective in February 2020. LNI rules will now be more restrictive than EPA or WSDA's rules, and WSDA will need to go back and update their rules to match LNI's. Most of the changes were in the definitions section of the rules. However, two of the changes made by LNI are causing some concern: In current WSDA and EPA rules there is the requirement of posting safety information when there are decontamination supplies for 11 or more workers or handlers. LNI changed it to wherever there is 10 gallons or more of decontamination water supplied, the safety information must be posted. However, in state rule, each handler has to have 10 gallons of decontamination water anyway, which essentially means that a handler will always have to carry a safety poster with them, even if working alone. The second issue had to do with organic vapor cartridges and dust/mist filtering respirators. In EPA and WSDA rules they are required to be switched out after 8 hours of cumulative use. LNI changed their requirement to be switched at the end of each day's use. This means that if an applicator used a cartridge for 15 minutes, they'd have to discard it at the end of the day.
- Natural Resource Assessment Section (NRAS) is continuing to evaluate the water quality monitoring data from 2018-2019. They are still seeing some areas of chlorpyrifos, malathion, imidacloprid and a variety of other insecticides and herbicides. They decided to pursue an EPA multipurpose grant and team up with Pesticide Management's Technical Services & Education Program to do surface water sampling. Field work will be done in the apple growing areas around Wenatchee and will focus on watersheds where they are doing enhanced surface water monitoring related to malathion and chlorpyrifos. Once the monitoring is completed, they plan to conduct education and outreach, and coordinate the information with the TSE Program for airblast sprayer calibration work efforts.

Idaho--

- When the Idaho legislature ended last spring, they did not do a continuation of rules—basically all of their rules were going to expire. They had to do temporary rules to keep their rules going. This gave them the opportunity to go through each line of their rules to review, modify, correct, and update them to any federal standards. They were also able to implement their state's red tape reduction act to find parts of rules that were antiquated, out

of date, or that didn't make any sense. They were able to reduce about 1000 words out of their rules. Once the legislature is back in session they will initiate the rules and at that time the rules will be back at full strength. Idaho is not re-working any of the C&T rules at this time. They are going to wait until their state plan is approved by EPA before finalizing them.

- Enforcement philosophy update—Idaho has developed a uniform way in how they do inspections, investigations, and compliance assistance so that all investigators across the state are doing their work in the exact same way. All applicators will also be treated equally, no one is going to be treated higher than anyone else. ISDA is going to be acting clear, transparent, honest, professional way of doing business.
- Like Oregon, Idaho also has case review volume issues. They are looking at ways they can streamline the process, and may adopt some of the things that Oregon is doing. For simple warning violations, they are making a letter template so that they don't have to spend time drafting them individually.
- Idaho used online registration of pesticide exams this year. The tester must go online to pre-register, pay fees, and have everything completed before they come to the exam session. In the past, Idaho has lost thousands of dollars in revenue from “no shows” and testers who did not pay exam fees. They are also looking into having online exams for pesticide applicators, and are developing an online pesticide registration program. The program is running now, but still needs fine-tuning.
- Compliance Topic—ISDA staff was called in (on a Sunday) for technical assistance/first responders via the Idaho state communications hotline to assist with 30 workers who were sprayed by aerial applicator in May 2019. Within 45 minutes of arriving at the field they were able to find out who owned the field, who the contracted workers worked for, and what product was applied and by whom. The incident highlighted how unprepared the local fire departments and hospitals are in pesticide related exposure cases and especially a large group related incident. The hospital did not have enough Chempacks and diagnosed the individuals based on symptomology presented at the emergency room. Hospitals were treating without knowing what product was sprayed--they assumed it was an organophosphate—but was actually a copper based fungicide product. ISDA was in a unique position in that they were first responders and investigators. There were lots of lessons learned and highlighted the need for collaboration with public health departments and the roles of other agencies. In the end, ISDA was never actually able to determine if an exposure occurred. The application was made just prior to a huge rain event—the rain had washed it away. They weren't able to collect samples, except for samples from the target area to prove that an OP wasn't applied.
- Idaho discovered that they don't have ability to detain, quarantine, or destroy a crop that has been contaminated with a pesticide outside of what their statute says is an “effectuating diagnosis.” Idaho has this ability when it is an intentional application of a pesticide that is not labeled for the crop, but not in the case of accidental application. They had a situation where an aerial application drifted a pesticide/fungicide tank mix on to someone's wheat that was scheduled to be harvested 4 days later. One product was labeled for wheat but had a 14 day pre-harvest interval, the other was a fungicide that had a zero residue tolerance. ISDA held the crop until they could determine the extent of the drift, then allowed the producer to harvest portions of the field where they did not find residues. For the areas of the field that they did find residues—they still had to release the field back to the grower because they did not have any grounds for holding that crop. ISDA contacted FDA, but it was evident FDA was not going to do anything about it. ISDA thinks that FDA did not respond because they didn't have a mechanism or program in place to respond—because their presence is usually at the train cars, elevators, etc., after harvest. ISDA sent letter to the grower (FDA was cc'd) stating what the investigation had found, and that they were releasing the crop back to the producer. They informed the producer of options of what could be done with the crop, but also had to tell him that it was no longer within ISDA jurisdiction.

Tribes--

- Coeur d'Alene/Circuit Rider--Eric Gjevre
 - Tribal pesticide programs are small programs. The tribal circuit rider covers a lot of reservations, but it is still a really small program.
 - Nez Perce Reservation—bifenthrin application on canola that drifted over an irrigation canal.

- Spray drift complaint on the Coeur d'Alene Reservation, which was Roundup desiccant on lentils that drifted over timberland and to a residence.
 - Did WPS inspections on Nez Perce Reservation vineyards in Clearwater valley area
 - C&T Plan—he has working with local tribe contacts on each reservation. They have decided they will use the C&T Plan for Indian Country Option.
- Indian Health Service--Holly Thompson Duffy
 - She manages the Pesticide Risk Reduction Program for Indian Health Service under an interagency agreement that has been in place for 9 years. She works with all 43 tribes in Washington, Idaho, and Oregon providing education and other risk reduction resources and outreach.
 - This is the last R10 meeting for her. The EPA funding ends September 30, 2020, but her term position with IHS ends on January 10, 2020. She is advocating to have her term extended to September 30th since the funding from EPA is already available.
 - Children's Environmental Health Project was able to do some of their work this year—they received funding to conduct environmental sampling at some of the child care facilities she serves. They were looking at lead, PCB's, allergens and pesticides present both indoors in dust and outdoors in soil. Thirty-one facilities, over a 3 month period, were sampled for lead, PCB's, allergens and pesticides. They also collected data on practices and behaviors to try to understand the results when they came in. They are currently analyzing the results, then will determine risks to children. An outreach phase was supposed to follow, however, with her term ending soon, and still waiting for finalized results, she may only be able to provide some basic information to the facilities. This is part of the reason to extend her term to the end of the funding period so that they can honor their commitment and obligation to the facilities that were involved in this project by supplying them with the findings of the sampling project. She was able to purchase environmental toolkits for the facilities that participated.
 - Bedbugs have been an issue for a really long time and have become a bigger problem on their reservation. She has received a lot of calls about them.
- Yakama Nation—Joe Herrera
 - He is the pesticide inspector for the Yakama tribe.
 - He obtained a credentials (issued by the casino) to do use inspections in the tribal owned casino that allowed him to do a use inspection at the location. There is a child care facility next to the casino, bordered by a big grass lot where the casino makes pesticide applications.
 - The Yakama Tribe hosted the TPPC Tribal Pesticide Program Council fall meeting held in October.
 - He worked with Washington State Department of Labor and Industries so that they could conduct inspections on the reservation. He was able to go with them on their inspections and conduct his inspections at the same time. He felt that they had established a good working relationship between the tribe and state agency.
 - He reported that he has had the most calls ever regarding bedbugs over the past year. He conducted a use inspection on Orkin while they were applying pesticides to control bedbugs. He found it interesting that the Orkin applicator didn't know that the reservation had an inspector. The Orkin applicator had been applying pesticides on the reservation for 18 years.
 - Distributed a lot of the new EPA approved WPS posters and WPS How to Comply Manuals over the past year. This has led to a better working relationship with all the growers—and now they will often call him asking for more materials.
 - He worked with EPA Region 10 Compliance staff (Chad Schulze, Nicholas Hurwit) on a repackaging case. It was great to watch them in action and how they conducted the inspection. Really helpful for him, and he learned a lot.

SFIREG Questions/Request for Information (Region 10 Responses):

PIRT

- Washington—Option 1 or 2 (basically did Option 2 for our Drift PIRT held last year.)
- Oregon--Create an Option 4: Compete PIRT program, but have incoming organization/institution handle logistics and finances UPON REQUEST
- Idaho—No Response
- Alaska—No preference. Have not hosted a PIRT, staff that have attended PIRT courses have not had any objection to the way this is currently being done. However, no objection to a PREP-like scenario, as the PREP courses are well-run and beneficial.

C&T State Plan Status

- Washington—Draft State Plan completed, sent to AAG for draft Opinion Letter, then will go to WSDA policy office for review. On track to submit plan in March 2020.
- Oregon-- Confusion: Having the Governor's Office understand what we are doing by March 4, and perhaps be concerned that they are possibly signing-off on a draft plan, rather than understanding that they are signing off on our authority.
- Idaho—No Response
- Alaska--On track with development of Revised Certification Plan, and do not have any specific issues or concerns to raise.

Dicamba

- Washington--None
- Oregon--None
- Idaho-- No Response
- Alaska--None

Multipurpose Grant

- Washington—Pesticide Stewardship Partnership (PSP) to assess pesticide management and encourage voluntary changes in pesticide use and practices for the protection of water quality, endangered species, and human health. WSDA Natural Resource Assessment Section and Pesticide Management Division--\$56,204
- Oregon-- Evaluating Pesticide Safety Education Materials for the General Public--ODA Pesticides Division and OSU Pesticide Safety Education Program--\$54,639.
- Idaho-- No Response
- Alaska--Alaska's proposal for use of the Multi-Purpose Grant did not focus on pesticides. However, the department is making a proposal related to the use of drones as part of inspections/enforcement, so pesticides may benefit from this work.