

**STATE FIFRA ISSUES RESEARCH & EVALUATION GROUP
FULL COMMITTEE MEETING
DECEMBER 9, 2019
U.S. EPA POTOMAC YARDS, CRYSTAL CITY, VA
MEETING MINUTES**

Called by: Liza Fleeson Trossbach, VA, SFIREG Chairperson
Minutes by: Amy Sullivan, AAPCO Executive Secretary

Monday December 9, 2019 8:15 am

U.S. EPA OFFICE OF PESTICIDE PROGRAMS UPDATE

Yvette Hopkins, EPA/OPP/FEAD

Report on status of relevant activities of OPP impacting state pesticide regulatory programs.

EPA offers Guide to Help Translate Pesticide Safety information into Spanish

<https://www.epa.gov/pesticides/epa-offers-guide-help-translate-pesticide-safety-information-spanish>

EPA is taking an important step in its efforts to improve risk communication by expanding the agency's Spanish language resources that assist with translating the health and safety portions of agricultural product labels. The [Spanish Translation Guide for Pesticide Labeling](#) resource is available for anyone to use, including pesticide manufacturers, and provides a resource for pesticide registrants that choose to display parts of their pesticide product label in Spanish.

EPA developed the Spanish translation guide in response to feedback from stakeholders who believe that having bilingual pesticide labeling is critical to the well-being of pesticide handlers, applicators, and farmworkers, many of whom do not speak English as a first language. EPA generally allows pesticide registrants to translate their product labels into any language so long as there is an EPA-accepted English version of the label and the translation is true and accurate. Some pesticide registrants already have their product labels fully translated in Spanish. However, many product labels are only available in English.

The guide will help registrants maintain accurate, consistent translations on product labels and ease their burden when adding Spanish translations.

EPA Makes Paraquat Draft Risk Assessments Available for Public Comment

<https://www.epa.gov/pesticides/epa-makes-paraquat-draft-risk-assessments-available-public-comment>

EPA is taking an important step in its regulatory review of paraquat—an herbicide used in agricultural and commercial settings only. The draft risk assessments are the product of an extensive evaluation of available data on the health and environmental impacts associated with the pesticide. The agency is seeking public input on [draft human health](#) and [ecological risk assessments](#). These draft risk assessments are the next step in the Federal Insecticide, Fungicide,

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and Rodenticide Act (FIFRA) registration review process and are not a denial or an approval of the herbicide. Public comments will be accepted until December 16, 2019. As with all aspects of the draft risk assessments, the agency is seeking additional feedback from the public during the 60-day public comment period on the relationship between paraquat and Parkinson's Disease.

After public comments on the human health and ecological risk assessments are reviewed, EPA will determine whether updates or revisions to the assessments are necessary. EPA will propose additional risk mitigation measures, if necessary, in 2020, via its Registration Review Proposed Interim Decision. [Learn more about paraquat.](#)

EPA Releases Aquatic Life Benchmarks for Freshwater Species and Ambient Water Quality Criteria for Registered Pesticides

<https://www.epa.gov/pesticides/epa-releases-aquatic-life-benchmarks-freshwater-species-and-ambient-water-quality>

EPA released the revised [Aquatic Life Benchmarks](#) table, which includes both new and updated aquatic life benchmark values.

State, tribal and local governments use these benchmarks in their interpretation of water monitoring data. Comparing a measured concentration of a pesticide in water to an aquatic life benchmark can be helpful in interpreting monitoring data and in identifying and prioritizing sites and pesticides that may require further investigation.

New aquatic life benchmarks represent newly available toxicity endpoints for registered chemicals. EPA's goal is to add to these benchmarks on an annual basis.

EPA Releases Test Guideline for Premises Treatments

<https://www.epa.gov/pesticides/epa-releases-test-guideline-premises-treatments>

EPA's final test guideline for premises treatments is now available. This test guideline (series 810.3500) provides recommendations for studies that evaluate the performance of pesticide products that control invertebrate pests in premises, such as cockroaches, ticks, mosquitoes, flies and wasps.

All companies wishing to register a pesticide product for use against [public health pests](#), such as cockroaches, ticks and mosquitoes, must submit product performance data that demonstrate the product works against the target pests. This test guideline is intended to ensure that data are scientifically sound and support a product's performance claims for invertebrate pests in premises.

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Data obtained using EPA’s test guidelines are used to perform scientific assessments that inform regulatory decisions. View our website for additional [Guidance on Efficacy Testing for Pesticides Targeting Certain Invertebrate Pests](#).

This test guideline clarifies the original guideline, which was published in 1998. The revisions were informed by public comments and review from the Federal Insecticide, Fungicide, and Rodenticide Act Scientific Advisory Panel.

The test guideline does not apply to testing for treatment of livestock or pets. It also does not apply to wide-area mosquito control, structural protection from termites, or bedbug products.

[View the series 810 test guidelines, including the updated series 810.3500 guideline for premises treatments](#)

- Issue Papers Update
 - The Agency has had “kickoff meetings” to address each of these issue papers. Follow-up meetings will be scheduled into the new year, EPA will engage with SFIREG to clarify any questions, and an Agency response will be forthcoming in the next few months.
 - On 10-9-19, the White House issued two executive orders that impact EPA.
 - These are the Executive Orders “on Promoting the Rule of Law Through Transparency and Fairness in Civil Administrative Enforcement and Adjudication” and “on Promoting the Rule of Law Through Improved Agency Guidance Documents”.
 - The executive orders put more process in place when amending or creating Agency “guidances”. OMB is determining how to implement these orders and EPA does not yet know what documents (FRNs for example) fall into the category of guidances and how this may impact Agency documents.
 - PRN 98-6 Pesticide Impurities
 - On 10-31-19, representatives from OPP and OECA met to discuss the concerns presented in this issue paper and to begin assessing Agency options to address the issues about PR Notice 96-8 and PRN 2003-1.
 - Cover Crop Issues and Plant-Back Restrictions
 - On 11-7-19, representatives from OPP divisions discussed the various issues raised and Agency options to address the concerns identified in this issue paper. There are complex issues raised in the paper, some of which would benefit from additional definition

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to ensure that EPA and SFIREG are using the same terminology.
EPA will reach out to SFIREG with clarifying questions as
necessary.

Links to Executive Orders, currently being reviewed by OMB as they may impact EPA's ability to routinely communicate with SFIREG:

<https://www.federalregister.gov/documents/2019/10/15/2019-22623/promoting-the-rule-of-law-through-improved-agency-guidance-documents>

<https://www.federalregister.gov/documents/2019/10/15/2019-22624/promoting-the-rule-of-law-through-transparency-and-fairness-in-civil-administrative-enforcement-and>

OFFICE OF ENFORCEMENT AND COMPLIANCE ASSURANCE (OECA) UPDATE

Kelly Engle for Anthony Matusik, EPA/OECA

Report on status of relevant activities of OECA impacting state pesticide regulatory programs.

New Reporting year for FIFRA Section 7

- Each active Pesticide-Producing and Device-Producing establishment must report production for the previous year on or before March 1st
- The 2019 reporting option went live today (December 9th) and reporters have until March 1, 2020 to get reports submitted.
- More information is available on our website: <https://www.epa.gov/compliance/pesticide-establishment-registration-and-reporting>

2020 PIRTs

- Tribal PIRT-
 - Tulsa, Oklahoma (Muscogee (Creek) Nation): April 28-30
- Pesticide Enforcement and Use Concerns PIRT-
 - Northampton, Massachusetts: May 4-8
- Basic/New Inspector PIRT-
 - Savannah, Georgia: September 28-October 2
- Website- <https://www.epa.gov/compliance/pesticide-inspector-residential-training-pirt>

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FED Talent Update—see attachment

- FedTalent, EPA’s new Learning Management System (LMS), will be used to take / document all EPA Order 3500.1 inspector training.
- Standard Operating Procedures will be developed to guide inspectors and first-line supervisors on the implementation of FedTalent inspector training.
- January 2020 – target date to fully launch FedTalent inspector training.
- At this time, state inspectors should continue to access inspector training through the inspector wiki & adobe connect.
- Non-EPA inspectors will have access to inspector training in FedTalent.
 - Non-EPA inspectors will need to request a FedTalent account. Guidance / directions on how to request a FedTalent account will be available on the Inspector Wiki
- Guidance and instructions will be provided as we transition to the new system and updates will be posted on the Inspector Wiki page.
- EPA will be hosting several webinar trainings to help non-EPA inspectors with this transition, these trainings will occur December 2019 - April 2020
 - We will share a document that contains the webinar and training information (Fedtalent Inspector Training Webinar Schedule Attached)
 -

EPA REGIONS REPORT

Fatima El-Abdaoui, EPA Region 3

El-Abdaoui has previously served in this role and was welcomed back. She is a project officer in Region 3. El-Abdaoui described the process the regions are going through with the states and tribes as they work on completion of the new Certification and Training plans. With a March 2020 deadline, many states have completed their draft plans, but others are still working out difficult issues related to rule and statute changes. El-Abdaoui stressed the importance of working closely with the project officers in the regions and emphasized EPA’s willingness to help support the states during the draft plan reviews.

PESTICIDE OPERATIONS AND MANAGEMENT (POM) WORKING COMMITTEE REPORT

Jeff Rogers, VA, POM Chairperson

Rogers thanked the committee members for their participation, and the Office of the Indiana State Chemist, especially Carrie Leach, for hosting the September 2019 Joint Working Committee meeting.

POM is currently working on reviewing the Dicamba Workgroup’s guidance document. They are looking for improvements and have identified some areas to focus on. The committee is still

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working on the Co-Pack issue and are waiting for formal feedback from EPA. They expect to continue work on the NC Devices white paper, the Data Collection issue paper, and the issue of disinfecting wipes through the April 2020 meeting. POM is also working on label issues in support of Kachadoorian's Label Improvement Workgroup.

ENVIRONMENTAL QUALITY ISSUES WORKING COMMITTEE UPDATE

Gary Bahr, WA, EQI Chairperson

DICAMBA – 2019 GROWING SEASON

Liza Fleeson Trossbach, VA, SFIREG Chairperson

Please see attached PowerPoint. The conversation began with Creger saying that the Pre-SFIREG meeting in Region 7 focused on the difficulty of managing burnout in the enforcement programs. One state in the region lost 9 field staff, and they are in the process of training the new hires – it will be challenging to have that many new staff in the field this year. Other concerns presented are the amount of time and effort that has been taken away from other program areas; difficult legislative questions; and concerns about what will happen with the labels in 2021. Traditional enforcement responses have been set aside. In Region 5 Verhougestrate said that there has been an uptick in certification activity due to the new labels. The product has caused so much extra work. The data that AAPCO collected for EPA is seen as having resulted in more bad labels and more certification and training effort. Industry training is not seen as sufficient, and the provided online trainings do not appear to adhere to online training competency standards. At this point most investigations are only looking for label violations as it is very difficult to determine the source of drift. Some states are not able to address all the label violations, but are hitting the 'high points' instead. There is also concern that Enlist is going to be an equally big problem. In Region 6 Smith said that Texas has had problems with the cotton label, and they have issued a 24(c) registration for high plains cotton to allow for spraying after the 60 day limit on the Section 3 label. Rulemaking and training are big issues as well. In Region 4 Mississippi has had the most problems, and found that in 2018 the number of complaints was reduced but the acreage was increased threefold. Tennessee has also had a large enforcement burden, Georgia has hired additional staff to manage tracking the training (while other states who have not been able to hire more staff are seeing workloads increase unsustainably), and the states in the region want to be able to put limits on the labels, as that has been helpful with past 24(c)s. Gere in Region 7 said that South Dakota has had similar issue as Regions 5 and 7. They did not accomplish the goals on their cooperative agreement workplan and are finding it difficult to work on other enforcement cases besides dicamba. The training tracking requirements are definitely an issue as well; in South Dakota they are going to require the applicator to provide proof of training rather than have the department track it. Paraquat training requirements add on to the dicamba requirements. The legislature has had questions

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about the pesticide program and there has been a fair amount of media exposure, which is unusual. Right now only 6% of the soy acreage has been planted due to flooding. In 2018, over half of the drift calls to the department concerned dicamba. They are only addressing label violations because it is too tough to identify the drift source. There certainly appears to be stage of crop issues, but it is hard to prove.

Kachadoorian stated that EPA has proposed an End of Year survey for AAPCO to conduct this year, rather than weekly surveys which were seen as not resulting in positive outcomes for the states. The states who have reviewed the survey feel as though it doesn't capture all of the work involved in managing dicamba in the states, that the positive outcomes of previous year's 24(c) registrations hasn't been acknowledged appropriately, and the issue of burnout for enforcement staff and managers. Creger asked if Dicamba would be discussed during the National Program Managers meeting following SFIREG and if it would happen on Tuesday afternoon when AAPCO would be present? EPA responded that it is not on the agenda. Kachadoorian replied that she would be bringing up the 24(c) issue during the Tuesday afternoon session. Creger also pointed out that hemp is very sensitive to dicamba. Dave Scott asked what EPA thought should be swapped out on the workplan for the time spent on dicamba? States also need to know now what information EPA will be requesting in any survey attempts, since that information may need to be collected in addition to normal data. Fleeson Trossbach replied that she is not aware of what can be swapped out, but the states can amend their cooperative agreements. Kachadoorian also asked that Scott provide input to Fleeson Trossbach on the survey questions. Smith added that even states with low complaints found the survey to take a lot of time. Scott agreed and added that any survey questions must be intended to address a specific objective.

FEDERAL PESTICIDE WORKER SAFETY AND C&T RULE UPDATES

Carolyn Schroeder, EPA/OPP/FEAD

Please see PowerPoint

Lamanno began by stating that there was still some confusion about details such as the draft regulatory text, citations, etc., and asked Ms. Schroeder for clarification. Schroeder responded that EPA the states should include as much detail as possible as EPA wants the plans to be enforceable. Lamanno added that while the states require comment periods for rulemaking, it is possible that language could be included in the plan that hasn't been vetted through the rulemaking process, and that could cause some problems. Schroeder agreed and said that EPA understands the issue and will work with states on these sensitivities.

Drake said that the R4 states are moving forward, but most of the Attorney Generals will not sign before EPA has accepted the plan. The same holds for the governors. Verhougstraete added that in R5 Donald Baumgartner has a very helpful guidance document. States are not sure if they can submit the plan electronically or if it has to be on paper. Schroeder responded that electronically is fine. Fleeson Trossbach stated that it appears different regions are saying different things, and that is causing confusion. Schroeder says she is working with the regions on consistency.

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Creger asked what will happen if a state does not have their plan in place in time. Schroeder responded that while March 4, 2020 is the effective date, EPA understands not everything will be in place.

There is a GAO audit occurring regarding the C&T rule. In 2020 they will be collecting information, and the report is due to congress on October 1, 2021. The OIG has completed an audit of how WPS has been implemented. OPP has responded to the recommendations, and where feasible OPP will implement them. OPP is currently considering if it is feasible to do a feasibility study.

ASSOCIATION OF AMERICAN PESTICIDE CONTROL OFFICIALS UPDATE

Rose Kachadoorian, OR, AAPCO President

Kachadoorian began by thanking Liza Fleeson Trossbach for her chairpersonship of SFIREG, as this was the last meeting of her term. She looks forward to continuing to work together in other areas moving forward. Kachadoorian stressed the importance of rotating leadership roles, and increasing diversity, inclusion, and mentorship. Kachadoorian introduced Gary Bahr, current EQI chair, as the incoming SFIREG chair, and highlighted his experience with water, environmental protection, and policy development.

Kachadoorian went on to discuss the July 2019 AAPCO Board meeting, which was focused on increasing effective communication, including more coordination in media responses, budgets, and fee structures, and onboarding new members. She also brought up her wish to have a label improvement guidance developed. Kachadoorian also encouraged everyone to attend the upcoming AAPCO Annual Meeting and Conference, which will have some interesting topics, including Climate Change. During the past year, she has stayed busy responding to FR Notices and highlighted letters written by AAPCO on behalf of the membership. The formal communications may be found on our website, aapco.org.

ASSOCIATION OF STRUCTURAL PEST CONTROL REGULATORY OFFICIALS UPDATE

Irene King, NM, ASPCRO President

King began by letting the committee know that ASPCRO's building code committee is working on the spray foam insulation issue, and that they have a lot of resources on their website. This year there will be a one day training before the annual meeting in August. In 2019 they did a training for EPA on termites and rodents with the National Pest Management Association (NPMA) on issues and IPM. In 2020 they would like to do another training with EPA as it went well.

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The ASPCRO board developed a task force regarding illegal sales of pesticides, particularly focused on online sales. Mike Weyman, SC and George Saxton, OISC are chairing the committee. ASPCRO is also coordinating with NPMA and NASDA to address what should be done when an inspector finds a counterfeit product. They just began that effort in November 2019.

The Mid-Year meeting is coming up in Reno, NV, and the Annual Meeting will be August 19-20 in Minneapolis, MN.

TRIBAL PESTICIDE PROGRAM COUNCIL UPDATE

Fred Corey, Aroostook Band of Micmacs, TPPC Chairperson

TPPC is made up of 45 Tribal organizations, and is focused on policy and issues. They meet twice a year (once in Indian Country and once in D.C.).

The recent Yakima Nation meeting was focused on:

1. Status of Pesticides in Indian Country Report. The purpose is to educate folks about the unique issues in Indian Country. EPA has been involved in reviewing the report but it is a living document.
2. Risk assessments. EPA doesn't consider unique risks to tribes, such as basket making, sweat lodges, etc.). OPPTs is also considering TSCA's approach because they utilize vulnerable population criteria in their assessments now. OPP is doing a pilot project regarding moose consumption of vegetation that has been sprayed with broadleaf herbicides, as well as concerns for basket makers using ash that has been treated with systemic pesticides for emerald ash borer.
3. Direct Implementation. While the states have primacy, the tribes do not. EPA has the responsibility of ensuring that pesticides are used properly in Indian Country, and the situation needs improvement. There are regional variations in coverage that should be addressed. From the tribal perspective, the C&T rule is a challenge because many tribes do not have resources to meet the deadline. In particular, the programs are very constricted and do not have legal resources or staff.

The next TPPC meeting is in D.C. on March 11-13, 2020.

AMERICAN ASSOCIATION OF PESTICIDE SAFETY EDUCATORS UPDATE

Faye Golden, Cooks Pest Control, AAPSE President-Elect

AAPSE held an exam development workshop in Duluth at the annual meeting which was well attended and found valuable. They also did a similar training at the EPA R1 meeting in early December. They are developing a Who's Who for sister organizations describing what the

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organizations do. They are involved in a lot of risk communication related to glyphosate and hemp, and are considering producing webinars on those topics.

NATIONAL PESTICIDE SAFETY EDUCATION CENTER- PARAQUAT TRAINING UPDATE

Kerry Richards, NPSEC

NPSEC has an EPA approved paraquat training developed to comply with the new label language. It is currently being updated and will be available in the new year. The Online only training was not sufficient, so in September 2019 NPSEC began developing an in-person training as well. They are also developing a database that SLAs can access to determine applicator's compliance with the label training requirements.

LABORATORY DIRECTORS COMMITTEE UPDATE

Carrie Leach, OISC

There will be a National Workshop in Florida focused on defensible data for court cases. Region 5 has a hands-on workshop as well. The 2020 National workshop will be in Michigan. Region 5 has a reoccurring quality assurance call, and at this time they are developing a retention time policy, and will share that with the other laboratories when it is complete. Hemp testing continues to be an intensive new arena for the laboratories. Wisconsin received 2000 extra hemp samples this year. The labs are complying with the USDA interim final rule, including the Drug Enforcement Agency's schedule 1 registrations which are required to handle hemp, and the annual reporting, which includes the tests completed, number of samples over tolerance, etc.

PRE-SFIREG REGIONAL REPORTS

SFIREG Committee Members

Please see attached reports.

Some highlights included concerns related to the paraquat training, including the respirator images with a man with a beard and the spill in the back of the pickup truck. Concerns that applicators who have taken the training are not required to take it again for three years, and that the training had some misleading imagery.

EEE outbreaks have resulted in increased mosquito spraying and agencies are working with the concerned public who are not accustomed to the spraying.

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ID and FL have had issues with FDA and commodities.

PESTICIDE USE ON HEMP

Dan Rosenblatt, EPA/OPP/RD and Linda Hollis, EPA/OPP/BPPD

Rosenblatt began by stating that there is a lot of interest in hemp. It includes different sectors and there are different requirements. Data generation methods are tricky. The 2018 Farm Bill gave hemp production the green light, provided the THC concentration is below 0.3%.

In the spring of 2018 the agency received a handful of request to add hemp to existing labels in biopesticides. All are tolerance exempt products, so it was not concerning to the agency, but they did go out for comment. The agency is currently evaluating the comments received. They are pretty close to finishing and then working with the Office of General Counsel and the USDA marketing requirements concerning who can produce hemp so that any regulatory action is in concert with the other involved federal agencies.

EPA has received one 24(c), which they did not disapprove. Rosenblatt stated that 24(c) may be an option and states should communicate with EPA if they have requests.

EPA has had productive conversations with IR-4. IR-4 is poised to do some field trials in 2020. They are working to design data generation protocols to include field conditions, sampled parts of plants and other considerations.

CBD raises a jurisdictional issue that FDA is working through. They consider CBD a 'drug'. This raises questions about edibles or creams and they are trying to benchmark or calibrate that because hemp is a tricky crop.

Hollis agreed that hemp is a very hot topic in biopesticides right now. They are hoping to have decisions on 10 compounds soon- 9 biopesticides and 1 conventional. They are working on label consistency right now.

Kachadoorian asked if EPA has discussed differences based on what the hemp is grown for, ie. Protein, seeds, textiles, cbd, etc., Rosenblatt responded that they are trying to apply regular decision making protocols to it. Therefore hemp is hemp, regardless of what it is grown for. CBD has been determined to be a drug due to its effectiveness on seizures. FDA does not consider inclusion of a drug in a gummy to be appropriate. LaScola stated that EPA should consider end uses when labeling the products, but Rosenblatt said that EPA is not considering putting hemp into a crop group at this time.

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FOCUSED WPS INSPECTION INITIATIVE

Carol Galloway, EPA OECA

Galloway began by stating that there are three types of inspections: information, protection, and mitigation. They have been have good discussion with the AAPCO WPS committee and some states and tribal consultations. Some EPA assumptions may not be true:

- Focused inspections may not be less time, therefore they need flexibility in negotiating with states, and
- Bad optics are concerning. All aspects of WPS are important and the agency does not want to support an effort that may be seen as prioritizing some aspects over others.

The pilot isn't for everyone, especially if distance is an issue. But it is an option for some. The agency has had some overall positive reactions; questions on the pilot will be included in revised pilot guidance (i.e. how to report on the 5700 form), and they will determine the benefits later.

Galloway hopes to have the framework revised for the pilot soon, with a midyear 2020 or FY 2021 start. The two year pilot program will assess if it is worthwhile to include the option in the future.

Pat Jones, AAPCO WPS standing committee chairperson thanked Galloway for the communication and added that the committee has had varied comments. Florida and North Carolina both believe that it is better to do a comprehensive inspection.

NATIONAL ASSESSMENT OF POLLINATOR PROTECTION PLANS

Patrick Jones, NC

Please see PowerPoint Presentation.

EPA is currently reviewing the data provided by AAPCO's assessment. EPA was very complimentary of the data provided by the states and thanked everyone for their efforts. It is very useful.

BEE VECTORED PESTICIDES

Donna Kamarei, EPA/OPP/BPPD

The product discussed is called Vectorite with CR-7, EPA Registration number 90641-2. It was issued a federal registration in August 2019, and has a tolerance exemption. Kamari described the product, and said that the active ingredient is a fungus staphrotroph, *Clonostachys rosea*, which is found in the natural environment in soils. It is applied by bees who go through a

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dispensing system out of the hive, and is used to control diseases such as Botrytis and Sclerotinia.

STATUS OF NOTIFICATIONS TO EPA

Julie Spagnoli, JM Speciality Consulting/ AAPCO Industry Relations Workgroup

Please see PowerPoint presentation.

Kachadoorian agreed it was a problem when states are unable to determine if a market label is approved, and if it isn't in PPLS the states do not know if the label is approved. Meredith Laws, EPA/ OPP/ RD responded that many times the labels that take longer than 30 days include Confidential Statement of Formula changes that are flagged as problematic. She countered that the registrants need to provide better quality assurance in the submissions. If that is not the case for a delay, then the registrants should contact the branch manager directly with their questions.

FULL SFIREG CONSIDERATION OF ISSUE AND WHITE PAPERS AND ACTIONS

Liza Fleeson Trossbach, VA, SFIREG Chair

Fleeson Trossbach reviewed the previous year's issue papers and responses from EPA- see attachments and OPP Update. The North Carolina/Region 4 white paper discussion was moved to the closed session on Tuesday December 10, 2019.

ADJOURN