

## EPA Region 9 Pre-SFIREG Meeting Report – Fall 2020

**Meeting Date:** October 5, 2020 at 3:00 pm PST

**Meeting Location:** Conference Call

**Report Prepared By:** Bret Allen (NV) – Region 9 SFIREG Representative

**In Attendance:** Arizona, California, Nevada, Hawaii, Guam, CNMI, Navajo Nation, and EPA Region 9

For the pre-SFIREG meeting, I was asked to receive feedback from Region 9 states, islands and tribes on the following issues (the participant's answers are below under "State/Tribe/Island Updates"):

1. **FY2022-2025 FIFRA Cooperative Agreement Guidance:** OPP has gathered comments on the grant guidance from AAPCO and states by the August 2020 deadline. Now that comments have been provided to EPA OPP, please reflect on the topics and discuss any additional perspectives and comments related to program areas where you would like to provide additional feedback to EPA OPP. How can SFIREG assist you in communicating with EPA specific suggestions and changes to the guidance? Are there any additional changes or additions suggested?
2. **Pollinator Management and Bee Keeping Practices and Products:** Recent concern has emerged from R4 states and other states about how Pollinators are managed and concerns about bee keeping practices and products that might be causing issues. What issues do you see in your state and regions with regards to managed pollinator pesticide use practices, cases, and management where education, training, and pesticide labels and violations could be occurring?
3. **Paraquat Labeling - Certified Applicator Requirement:** The recent changes to the label only allow "certified applicators" to make applications. Have the states in your region received any feedback regarding this requirement and impacts to the ability to get the training and make the necessary applications? Have you received questions regarding additional training and who can do what? What if any other frequently asked questions can you share?
4. **Dicamba 2020 Growing Season and Upcoming EPA Decisions:** We have been through the 2020 growing season, and how many reports of misuse have you received; how many enforcement actions have been taken; and what are the overall issues you're dealing with from 2020 or even previous years. What trends do you have in cases? Have the 2019 changes and training programs for the dicamba label made a difference? What are the states specific concerns regarding continued use of dicamba in 2020 and the next registration decision cycle in the fall of 2020?
5. **Revised C&T Plans:** As the modified certification plans have been developed and submitted to EPA; how have your programs continued to adapt to C&T issues and topics especially during this COVID-19 pandemic? Are there any continued or lingering concerns/questions regarding the review process, and how can SFIREG assist you in working with EPA OPP?
6. **COVID-19:** With the evolving public health crisis, all states have been impacted to varying degrees. How have your programs continued to adjust to the pandemic and COVID-19 impacted your respective pesticide programs, inspections and investigations, C&T, and other programs. Are there any implications to your ability to meet your commitments under your cooperative agreement across programs? What if any assistance do you need from EPA?

7. **Issues in states with FIFRA preemption:** States in R8 and elsewhere have asked for SFIREG to assess the complex nature of FIFRA preemption. State lead agencies for FIFRA have historically had state primacy for FIFRA, act as co-regulators with EPA for FIFRA, lead the work to implement the EPA FIFRA Cooperative Agreements, create state pesticide laws and rules to regulate pesticides and implement associated pesticide programs. Preemption is the ability of one level of government to override laws of a lower level. Pesticides in many states are regulated solely by the State Lead Agency. There has been a movement in some states to allow the restriction of pesticide uses at other jurisdictional levels such as city or county governments. Are there issues and implications for your ability to work as the SLA, work with applicators and the pesticide industry, and what assistance do states need? Full SFIREG appreciates your assistance to fill out this survey to assist in creating the issue paper.

### **State/Tribe/Island Updates:**

During the updates, the topic of virtual inspections came up and if they counted toward EPA inspection projections. Nevada and Arizona stated that virtual meetings are common practice, even prior to COVID-19, especially since there are numerous out-of-state RUP dealers. A lot of people thought this was common practice and counted them toward 5700. Patti Tenbrook stated she would get guidance from OECA.

Prior to state updates, Cindy Wire (PREP Coordinator & Region, State, Tribal Liaison) discussed the National Program Guidance (draft document) for the Office of Chemical and Pollution Prevention. She mentioned that OPP requests revisions every 2 years and they want the Regions to focus on the following 5 priorities for FY22 and FY23:

- 1) Continued implementation of the WPS rule; to ensure revisions are in place;
- 2) C & T applicators rule...continue with the process and work close with grantees after 3/4/2022;
- 3) Continue pollinator efforts (these vary between states and tribes);
- 4) Continued efforts regarding grant management;
- 5) Require regions to do 1 IPM related program.

### **Arizona:**

- AZ is receiving a lot of Section 18 requests regarding disinfectant products; a bit uncomfortable with the amount they are getting in.
- One of these is a product called Surface Wide 2 (a surface disinfectant product)...asked if any other state had this concern.
- Paraquat: Increased complaints regarding this; especially from the non-English speaking applicators;
- C & T/COVID: No changes or updates;
- Moving CEU's online rather than in person trainings

- AZ does not have preemption issue.

#### **California:**

- Seeing PPE shortages (especially N95 face masks). Asked if any other state was having this issue, but none do.
- No issues for SFIREG;
- Also seeing an increase in Section 18's. One product is called Gridnard (disinfectant product).
- Moving CEU's online rather than in person trainings.

#### **Nevada:**

- No new issue papers;
- Active in following-up on EPA referrals regarding unregistered pesticides claiming to kill COVID-19;
- Paraquat: There may be little impact to growers. More people in NV are getting certified. Regarding the closed system, the manufacturer was developing a closed system, but it is not finalized. Applicators are going to want to know where to get closed systems. Right now, they are using older products that do not require a closed system.
- C&T: The plan has been submitted to EPA and they conducted their initial review. We are currently working with NV legislative counsel bureau to conduct the regulation changes;
- COVID-19: Due to the recent uptick in cases, we are suspending indoor inspections (market inspections and record audits). Outdoor inspections can continue at this time. We are also active in conducting investigations. Administering exams on a limited basis.

#### **Hawaii:**

- Dealing with a lot of non-registered, disinfectant products and UV devices which make false claims.
- Has only seen 1 Section 18 product related to COVID-19.
- Paraquat and dicamba are not being used in Hawaii.
- C&T plan has been turned in. 99% of their regulations are finalized (that pertain to the revised plan).
- COVID-19: Active in following-up on complaints only...no inspections. They are currently administering exams in large facilities with people far apart.
- No new issue papers.

**Guam:**

- Guam was on a lockdown at the time of our pre-SFIREG meeting.
- No issues.
- COVID-19: They are dealing with illegal disinfectants and a lot of hand sanitizer being sold for retail. Products coming from Asia; working with EPA Region 9 on this.
- Not administrating exams.
- Only conducting market inspections.
- C&T: Not administrating exams or conducting training courses.

**CNMI:**

- No issue papers.
- Dicamba and paraquat are not being used in CNMI.
- Cooperative Agreement: Says CDMX works well.
- Sent C&T to EPA on time. There is a current hold on regulation changes but shouldn't affect the state plan due date.
- COVID-19: Dealing with unregistered products claiming to kill COVID-19
- Currently conducting health screens prior to administrating exams;

**Navajo Nation:**

- No issue paper;
- Commented on FY22-FY25 cooperative agreement guidance;
- Passed their beehive register ordinance and working on enforcement
- Dicamba or paraquat not used in this region.
- C&T on track.
- They were hit hard with COVID-19...no inspections at all and there was a strict lockdown in place.
- COVID-19: Working from home and working on updating their pesticide code and getting it out to the community. Are currently operating under the federal plan until the codes are in place.