

**EPA REGION III
REPORT to Full SFIREG
State FIFIRA Issues, Research, and Evaluation Group Meeting
December 7 & 8, 2020**

The EPA Region III PreSFIREG Meeting was held November 16 & 17, 2020 via WebEx. Attendees included: Christopher Wade (DE); Mary Begin and Megan Wilkerson (DC); Rob Hofstetter and Kelly Love (MD); Len Brylewski and Jessica Lenker (PA); Grant Bishop and Chad Carpenter (WV); Jeffrey Rogers and Liza Fleeson Trossbach (VA); and Fatima El Abdaoui, Aquanetta Dickens; Stacie Driscoll; Karen Melvin; Carol Amend; Noelle Watanabe; Courtney Hoernemann; Camille Lukey; Christine Convery; Kyla Townsend-McIntyre; Holly Raguza; Ralph Brogden; and Craig Yussen (EPA Region III).

The meeting included an overview of the new grant reporting database and a question/answer session with Allen Demorest (EPA Region 9) as well as discussions related to EPA's Off Site Compliance Monitoring during COVID; State Tribal Assistance Grant (STAG) Funding; PRIA IV; Inspector Training; and the reorganization of the EPA's Office of Chemical Safety and Pollution Prevention (OCSPP). As requested, specific information was gathered related to the following topics for Full SFIREG: FY22-25 Cooperative Agreement Guidance; Pollinator Management and Beekeeping Practices and Products; Paraquat Labeling – Certified Applicator Requirement; Dicamba 2020 Decisions; Modified State Certification Plans; Impacts from COVID-19 on State Regulatory Programs; and Preemption. In addition, each state and the District of Columbia provided a report of their current activities.

Full SFIREG - Request for Information

FY22-25 Cooperative Agreement Guidance

At this time, Region III States, which include Delaware, District of Columbia, Maryland, Pennsylvania, Virginia and West Virginia, do not have any additional changes or suggested revisions to the Cooperative Agreement Guidance. We are aware that the revised draft will be distributed to allow for additional comments and are hopeful if made available before the end of the calendar year that given the holidays, adequate time is allotted for comments. With the exception of DC, Region III States grant cycles begin July 1 and the majority are multi-year grants thus there is concerns regarding the release date of the final guidance to ensure that adequate time is provided to meet the May 1 submission date. In addition, any delays in distribution of STAG funding levels would impact the ability of Region III States to complete the application package.

Pollinator Management and Beekeeping Practices and Products

While acknowledging concerns regarding the use of pesticides in managed hives, Region III States have not experienced any significant issues and cases alleging adverse impacts to managed pollinator from exposure to pesticide are small. Of the six States (including DC), four states have had no cases this year; and the remaining two states each had one case.

Paraquat Labeling – Certified Applicator Requirement

Two Region III States have received direct feedback regarding the use of Paraquat. Specifically, concerns have been raised regarding the requirement that transport drivers to be certified and the ability of drivers to pass the exam as well as the financial implications (cost of testing and certification/recertification). Other concerns included the potential for a shortage of (certified) applicators given the requirement that

only certified applicators may apply Paraquat. The Proposed Interim Decision addresses the concern regarding transport drivers.

Dicamba 2020 Decisions

Region III States indicated their intent to register Dicamba for over-the-top (OTT) applications for the coming growing season. When compared to other Dicamba states, use is minimal across Region III States and States have not experienced the same issues as other states. Region III States did not have any Dicamba OTT cases for the 2020 growing season. There are no current plans to seek to further restrict the use of Dicamba for the 2021 growing season.

Modified State Certification Plans

All modified State Certification Plans (Plan) were submitted on or before the March 4, 2020 deadline. These Plans are undergoing review by EPA Region III in the order they were received. To date, three of the six modified State Certification Plans have undergone or are in the process of having completed the detailed review by Region III. Region III is on schedule to complete all reviews by March 2021. There are currently no outstanding issues or concerns. Region III States have received exceptional support from EPA Region III staff throughout the process.

Impacts from COVID-19 on State Regulatory Programs

All Region III States programs have been impacted, to varying degrees, by the current public health crisis:

- **Field Activities:** Four of the six Region III States met their overall commitments under the Cooperative Agreement. States were impacted by stay-at-home orders as well as other agency policies and procedures impacting the ability to meet their commitments. In addition, the availability of PPE for staff at least initially impacted the ability to provide protections to staff conducting field activities. There were no reported issues from the regulated industry regarding the availability of PPE required by pesticide labels although some concerns were expressed early on by both the Ag & NonAg sectors. At least one Region III State was required to surrender their PPE for first responders.
- **Certification Exams:** All Region III States certification programs were impacted by COVID-19. Five of the six States rely exclusively on State administered in-person testing (paper exams) and one states utilizes both paper exams as well as in-person computerized tested, all of which were halted at the onset of the pandemic however have now resumed. In keeping with social distancing guidelines and limits on group size, a number of states have shifted testing to outdoor spaces including state parks and parking lots; reduced the number of prospective applicators testing at one time indoors; and shifted to testing by appointment only. In addition, some states have collaborated with industry associations, which host the testing event with States proctoring the exams. In general, there have been no capacity issues with testing. Only one State is currently considering expanding its exam offerings permanently in the future. Considerations include the use of additional testing locations around the State and testing services.
- **Recertification:** Region III States expressed the reduction in the number and availability of recertification courses or continuing education programs has been the most challenging of the impacts of COVID-19. With the vast majority of recertification courses being held in-person, the opportunities to earn the required credit was greatly reduced at least initially. More virtual and online courses are being held. A number of States received concerns regarding the availability of in-person training and two States extended the renewal cycle to allow currently certified

applicators additional time to participate in recertification training. Additional concerns were raised in some States by certain applicator communities, for example, the Amish and Mennonites, who do not utilize technology, as well as from other applicators without internet access. In one case, a workbook was developed for applicators. Applicators can complete the workbook and return it to the agency for recertification credit.

- Section 18 Requests: To date, all Region III States have received inquiries regarding Sections 18s for the use of disinfectants, however, only two States have received requests to date. Products include:
 - Allied BioSciences-SurfaceWise2
 - SD Labs-Surface Defense SD 90+ and SD 90
 - Grignard Pure LLC-Grignard Pure
 - Kleen-Slate Antimicrobial Tape

No decisions regarding the requests have been made.

On a related note, regarding the category requirement for the use of disinfectants, none of the Region III States has a category requirement. There are currently no plans to add a disinfectant category in States. In general, commercial use would fall under another existing category, for example, general pest (indoor), unless otherwise exempt. One state does not require licensing as a pesticide business or certification as a pesticide applicator for the use of general use pesticides (nonrestricted use pesticides) labeled for disinfecting or sanitizing by companies or individuals offering janitorial, cleaning or sanitizing services if no other pesticides are used.

Preemption

Only one of the Region III States has preemption. Maryland does not have primacy for pesticide regulation. Montgomery County, Maryland, has limited the use of pesticide countywide and the City of Baltimore has also implemented use restrictions. There have been inquiries from other localities.

State Reports – Select Highlights *(complete reports available upon request)*

Delaware

- Budget: Budget cuts have been proposed. Pesticide section should remain fully funded for program needs, but extra programs may be impacted (ESP, Recycling);
- Field Activities: Recent upgrade to iPads for field inspectors when conducting inspections, in particular, marketplace inspections. The agency is considering a move to electronic forms; and
- Recycling Program: The granulation of plastic pesticide containers is now being conducted by agency staff. This is new and includes monthly pickups in each of the three counties using a milk run. Containers are transported to a central storage facility where they are subsequently granulated.

District of Columbia

- Office of Urban Agriculture – In March 2020, the Office of Urban Agriculture was established within the Department of Energy & Environment (DOEE). The Office will aim to create a national model for urban farming by increasing food production in all eight wards of the District and supporting a more sustainable, equitable, and resilient food system. The Pesticide Branch provided information initially and will continue to work with the group to ensure compliance with pesticide regulations.

- Laboratory Services – DOEE continues to have issues with securing adequate laboratory support. DOEE continues to utilize the services of both NSL (National Science Laboratories) and SDAL (South Dakota Agricultural Laboratories) however is hoping to secure an agreement with Virginia’s Department of General Services, Division of Consolidated Laboratory Services that can do both formulation and residue sampling.
- Alleged Misuse of Disinfectant – DOEE is currently investigating the use of a disinfectant with the intent to kill the coronavirus SARS-CoV-2 (COVID-19). In this case, the product was only registered to protect against non-public health microorganisms.

Maryland

- Chlorpyrifos - The Department has put forth regulations to restrict the use and eventually phase out chlorpyrifos. See following link under 15.05.01.02 E.: <http://www.dsd.state.md.us/comar/comarhtml/15/15.05.01.02.htm>
- Pesticide Sensitive Notification – The regulation has been amended to require notification under Category 8 (public health, which is primarily mosquito control). Maryland is under pressure from special interest groups to do more in enforcing the Neonic law that went into effect on January 2, 2018.
- Spotted Lantern Fly - Cecil, Harford and Washington Counties are under quarantine. Inspectors traveling those areas have been required to obtain a permit/certification in order to operate a State vehicle and/or collect plant samples as part of a routine inspection and/or investigation in one of those counties. To obtain a permit, a designated individual from an organization must receive training and pass an online test to demonstrate a working knowledge and understanding of the pest and quarantine requirements.

Pennsylvania

- Fumigation Use Observations - Structural fumigations in PA are less common than in the southern United States. Commodity fumigations are typically performed during non-business hours or on the weekends, so scheduling and labor issues are problematic. Grain cars fumigated out-of-state and sent to PA are ventilated and monitored by licensed applicators before the grain is distributed. PA has been informed that observing the back-end of the fumigation is not sufficient for credit as a use observation. Given the increased risk with fumigation use observations, PA would like specific guidance, in addition to the FIFRA Inspection Manual, for inspectors observing these types of uses.
- Certification Exams - PDA continues the process to transition category exams to closed book status. As category exams or study materials are revised, the process to change previously open book exams to closed book status is put in place. Currently, 16 of 28 exams have been transitioned to a closed book exam.
- Water Quality (Ground Water Monitoring) – PA will continue to utilize USGS for water sampling, lab work, and data analysis for the next five years for the most sensitive aquifers in the state. The new contract will include PFAS sampling at 10 of the 30 yearly wells in addition to bacterium and nutrients. PA has also incorporated an emergency sampling plan for well water pesticide complaints.

Virginia

- COVID-19 & Temporary Registered Technician Requirement – In response to COVID-19 and implications to Virginia’s certification program, licensed pesticide businesses can allow their employees to apply pesticides without obtaining a registered technician certification, for the

duration of the state of emergency due to COVID-19, as declared by Governor Northam (Executive Order 51), when these employees meet certain training and testing requirements. Allowing employees to apply pesticides without obtaining a registered technician certification will cease 30 days after Governor Northam rescinds Virginia's COVID-19 state of emergency. In Virginia, all applicators who apply pesticides for compensation are required to be certified as either registered technicians or commercial applicators.

- Online Services - Virginia is in the process of developing online services for its customers. Included in this effort is the option for online registration of pesticides; licensing of businesses; and certification of pesticide applicators. These services will all be available beginning in CY2021.
- Pesticide Collection & Recycling Program – Both programs have continued to be supported during the current public health crisis. Additional protections have been put into place thus allowing these activities to continue. Preliminary planning for 2021 is underway.

West Virginia

- Groundwater Protection - Entered into a financial agreement with the Department of Environmental Protection for a five-year groundwater monitoring program. Established eleven locations across the state of West Virginia that are vulnerable to pesticide exposure. Each location sampled monthly from March to September. Program is currently on hold pending further method development and purchase of extraction equipment
- Antimicrobial Products - WVDA has been overwhelmed with cleaning service and antimicrobial products registration and application questions. Pest control companies licensed in general pest control are not required to obtain additional training to provide disinfection services utilizing general use antimicrobial pesticides for the control of COVID-19. The General Pest Control category includes the application of products to control structural related health pests (viruses). If the disinfection service is provided in a school or childcare facility our IPM category would be required in addition to general pest control.
- WPS Outreach and Ag Safety Days - WPS outreach continues statewide. Ag Health and Safety Coordinator conducts presentations at conferences, conducts site visits to determine compliance and Ag Safety Days to provide WPS training. Two Farm Safety Days events were held in September at WVDA Huttonsville and Lakin Farms providing information and training on FSMA, GAP, Industrial Hemp, high tunnel management, farm equipment safety training and WPS.

Next Meeting – Spring 2021 Region III Grants/Pre-SFIREG Meeting is scheduled for March 22-24 and will be held virtually.

Respectfully submitted,



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EPA Region III