

State FIFRA Issues Research and Evaluation Group (SFIREG) Report

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The Region 6 fall pre-SFIREG meeting was held by teleconference via Microsoft Teams on October 27-28, 2020. All the states in the region (OK, AR, LA, TX, NM) as well as the Eight Northern Pueblos Indian Council and the Cherokee Nation participated. Due to the virtual format and participants schedules the meeting took place over two days, meeting for a couple of hours each day.

Reports and updates were given by the regional EPA staff. Updates on the following topics were discussed:

- Imports
- Grants-MPG's, FY21 grants & FIFRA Grants Database
- Pesticide Programs
- Certification & Training

Region 6 Discussions to Specific SFIREG Questions

1. **FY2022-2025 FIFRA Cooperative Agreement Guidance:**

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?

Some states have difficulty obtaining water quality data. Arkansas and Texas do not oversee the monitoring of surface water. Oklahoma and Louisiana do monitor surface water. Louisiana samples surface water once a quarter and ground water twice a year.

A few states were concerned with tracking drift reducing technologies. This would be a burden and difficult to obtain.

Most states had strong feelings on the topic of reporting projected numbers and/or total program numbers. Most states do not track separately but does complete a fair amount of inspections with state funds that get reported as if they were done with grant dollars. States feel like this makes it hard when negotiating numbers with regional staff.

2. **Pollinator Management and Bee Keeping Practices and Products:**

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?

All states do see very few pollinator complaints annually, usually less than 5 in any given year. Arkansas reported that one of the largest beekeepers in the state has moved out due to the ongoing issues with dicamba. Louisiana stated they had 3 complaints last year, all were related to mosquito spraying. In all three incidents the bees were tested and they all tested negative for pesticide residue. Texas and New Mexico reports that their numbers are low and no evidence of widespread issues.

However, all states agree that there has been in a rise in beekeeper misuse when applying pesticides to their own hives. All states have reported incidents where beekeepers are injuring their own hives due to using products that aren't labeled for the use in hives or over application.

Oklahoma, Arkansas and New Mexico have systems such as AgWatch or Sensitive Crop Registry that allow apiaries mark their location for applicators to see sensitive commodities in the areas they are going to be making applications. Registration is purely voluntary and participation by beekeepers is low.

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?

Region 6 states have not had any issues with the new requirements. However all states have reported an increased number of calls concerning paraquat regulations. Most all of the states have seen an increase in applicators. Louisiana noted that they have conducted tutorials for applicators to help prepare them for the exam. They have had a decent number of individuals that have not been able to pass the applicator exam. Most all states are discussing this topic when speaking at meetings and working with extension services to disseminate information.

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?

Region 6 states for the most part have seen no issues with the exception of Arkansas.

Arkansas reported over 500 complaints, Louisiana had 5 complaints, Oklahoma had 2 complaints and Texas had 9 complaints, only 2 were OTT applications. All states stated they were told that a large number of applicators were using generic formulations.

In regards to the reregistration, the region has an issue with the cut off dates. A large majority of the soybeans in Oklahoma are double crop beans meaning most of the beans are planted mid-June thus greatly reducing the ability to utilize this technology.

Oklahoma, Texas and Louisiana each plan to seek a 24c label for their state that would change the cut off dates.

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?

There are no concerns concerning the revised plans. All states were able to submit their plans by the deadline and do not foresee any issues implementing plans once approved. All the Region 6 states agree that our regional EPA staff was a tremendous help in preparing these plans. Our regional staff was very responsive to questions and were very helpful in allowing us to being able to submit a feasible plan on time.

6. **COVID-19:**

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?

The Region 6 states has dealt with the pandemic in various ways. Some states have shut down to the bare minimum, some have continued close to normal and some have been in the middle. Most of the state's office staff has transitioned to teleworking while some are still reporting to their office. New Mexico and Arkansas took advantage of doing some remote inspections mainly focusing on records checks. Also, New Mexico and Arkansas fell short on a couple of inspection categories. These states stayed in contact with the regional office about their situation and reported the region was understanding and helpful considering the situation.

7. **Issues in states with FIFRA preemption:**

States in R8 and elsewhere have asked for SFIREG to assess the complex nature of FIFRA preemption. 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.

All states in Region 6 have preemption clauses in their law. New Mexico did report a case in the past where a municipality tried to develop rules and regulations concerning glyphosate. They were able to address this and resolve the issue.

McGirt v. Oklahoma:

The Supreme Court decision in McGirt v. Oklahoma could potentially affect the State in regards to enforcement not only for our agency but any regulatory agency in the state. The decision stated other potential impacts between territorial rights that may arise, which the Court put to the state and the tribes to resolve amicably should conflicts occur. The Court cautioned that this could stretch to include taxation, adoption, and environment regulation rights. This case and the effects of this case are going to be a major hurdle in the upcoming legislative session.