

Region 2 Pre-SFIREG Meeting Report

Submitted by Anthony Lamanno, USEPA Region 2 SFIREG Representative.

The USEPA Region 2 Pre-SFIREG meeting was held by conference call on April 8, 2021. New York, New Jersey, Puerto Rico, and the US Virgin Islands (states) and USEPA Region 2 participated on the call. The following are several of the topics discussed during this call:

Reasonable accommodations under the Americans with Disabilities Act- Allison Payne, Pesticides and Toxic Substances Law Office, Office of General Counsel provided information related to the American with Disabilities Act (ADA) and the pesticide applicator certification process. All states and territories that receive USEPA funding assistance must comply with the ADA. The states are required to have discrimination planning in place ensuring that there will not be discrimination based upon a disability. However, states are not required to reference this planning in their certification and training plans.

Reasonable accommodations must be made for anyone requesting them under the ADA, but none of the certification requirements can be waived. States can consider if an accommodation causes an undue financial or administrative burden on the program and may deny the accommodation if it does.

The group discussed whether a written exam, as required for certification, is required to be taken in a written format or if the exam can be provided verbally as a reasonable accommodation. An exam can be given verbally under the ADA if the person taking the exam can otherwise qualify as a certified applicator.

USEPA's investigation of PFAS in Anvil 10+10 products - Thuy Nguyen, OPP Biological and Economic Analysis Division, Analytical Chemistry Laboratory provided an update in USEPA's investigation of PFAS in Anvil 10+10 products. This investigation began when an independent testing group found levels of PFAS in Anvil 10+10. USEPA was asked to test this product to duplicate the tests and determine if PFAS is in this pesticide. USEPA worked with the pesticide manufacturer, Clarke Mosquito Control Products, Inc., to arrange for product testing and container testing.

The testing indicated that the PFAS found may have come from the pesticide containers. It appears that the fluorination process to produce fluorinated HDPE containers, which are stronger than non-fluorinated HDPE containers, creates PFAS as an unintended byproduct. USEPA is working with other federal agencies to determine the scope of this issue and if it exists in all fluorinated HDPE containers or if it is limited only to certain fluorinated HDPE containers.

Update on Certification and Training plan reviews- Tara Glynn, USEPA Region 2, provided an update on the review of the certification and training plans that were previously submitted to USEPA Region 2. The regional program and legal staff review are being conducted and comments are being shared with states as they are identified.

USEPA has developed Standard Operating Procedure for plan review, which include review by USEPA headquarters staff at the Branch level and Office of General Counsel, with eventual sign-off on the final comments to the plans. The Region 2 state plans are in various states of review in the region and at headquarters and it is anticipated that final drafts of the plans will be ready by November 1st. There will be follow-up during the 2022 work plan negotiations to arrange for quarterly calls and end of year reporting associated with the plans.

Status update on state Certification and Enforcement programs during Covid-19-

The states were asked to provide a brief update on certification and enforcement activities associated with COVID-19. In New York the pesticide enforcement program continues to conduct inspections in person and virtually. Pesticide applicator exams are being conducted following social distancing requirements. The inability to conduct exams during the height of the COVID-19 crisis and the current social distancing requirements have led to a high demand for exams. Due to this demand New York State is exploring options associated with their exam process which may include computer-based exams.

New Jersey continued to address incidents throughout the pandemic and conducted inspections when not prohibited due to COVID-19 restrictions. They have also implemented virtual inspections when possible. New Jersey has amended their regulations to allow for 3rd party exams and is developing pesticide applicator category training on-line.

Puerto Rico has been conducting marketplace inspections, PCO inspections, and complaint response, but has not been conducting agricultural inspections due to social distancing requirements.

The US Virgin Islands have been making adjustments to their program due to COVID-19. They have been conducting hybrid certification training by using video conferencing and in person training. The pesticide program has requested that the University of the Virgin Islands add additional applicator certification and recertification classes to meet the training needs. They have also allowed for applicators to extend their certifications for one year while still remaining in compliance with the federal requirements. They are conducting inspections while following social distancing requirements.

Full SFIREG discussion topics for Pre-SFIREG meeting:

The SFIREG Chair requested that the regional representatives discuss the following topics during the Pre-SFIREG meetings in preparation for the June SFIREG meeting:

Pet Collars-The Region 2 states were asked if they have experienced any recent complaints or inquiries associated with pet collars, including collars containing insecticides such as flumethrin and imidacloprid. Although the Region 2 states were

familiar with some of the recent concerns associated with the use of pet collars there were no significant complaints, cases, or inquiries in the Region.

Dicamba- The Region 2 states did not identify any problems with the use of dicamba products, including the use or availability of label required adjuvants. New Jersey indicated that there is very little agricultural use of dicamba in their state.

24(c) USEPA and state registration- The 24(c) approval process was discussed during this call and most of the Region 2 states did not express concerns over the current 24(c) process. However, New York State is still concerned about the current direction on 24(c) label approval. The inability to develop more restrictive pesticide use requirements associated with Special Local Need registrations is not consistent with the program's past registration practices to protect unique resources. If SFIREG were to make a request to USEPA to reconsider this process New York State would support the request.

State Lead Agency assistance associated with PFAS/PFOS in pesticides and containers-The Region 2 states appreciate USEPA's response associated with PFAS/PFOS in pesticides and containers. The states did not identify an immediate need for assistance associated with this matter. However, they look forward to guidance from USEPA on how to proceed with this issue.

COVID-19 USEPA response and registration topics for disinfectants and devices- The only item the Region 2 states identified associated with the USEPA's COVID-19 response has to do with the State Label Issues Tracking System (SLITS). It seems that it is taking a long time to receive responses from SLITS associated with COVID-19 disinfectant labels. In some instances, the responses are taking up to a couple of months to receive.

USEPA credential issues- There were no issues with the USEPA credential process mentioned during this call.

Paraquat topics, regulation, and education- The Region 2 states did not have any concerns associated with the use of Paraquat. The states believe that the training is suitable and covers the appropriate information.

Pollinators and managed pollinator use of pesticides- The use of pesticides inappropriately by beekeepers is something that all of the Region 2 states have responded to in the past. However, this issue has not been seen recently.

Hemp and cannabis pesticide matters- Pesticide use on hemp and cannabis were discussed during this call. Although there have been pesticide labels approved by USEPA for hemp there are none for cannabis, which is a concern for New York. Along with many other states, this situation has created an ongoing regulatory concern for New York since growers continue to request the use of pesticide products for production of this crop.

EPA Reregistration review of pesticides- The Region 2 states were asked if there were any USEPA reregistration review matters that they would like to bring to the attention of SFIREG. The Region 2 states did not have any issues with the current reregistration process.