

EPA Region 9 Pre-SFIREG Meeting Report

Pre-SFIREG Meeting Date: November 8, 2021 at 3:00 pm PST

Meeting Location: Microsoft Teams

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

In Attendance: Arizona, California, NV, American Samoa, Ak-Chin Indian Community and EPA R9

Prior to updates, Cindy Wire (PREP Coordinator & Region, State, Tribal Liaison) joined the meeting to discuss OCSPP plans for early engagement with stakeholders on the next iteration of the OCSPP National Program Guidance. She covered program guidance during the next 2 years and laid out the 5 national focus areas:

- 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.

She then stated that OCSPP received the following feedback from states regarding these priorities:

- 1) More work with AAPCO.
- 2) More STAG funding for states.

Feedback from tribes: Focus on pollinator protection, PFAS, additional future funding and incorporating the 5 mentioned priorities above for tribes.

Environmental Justice (EJ) and Climate Efforts: The thought is to coincide EJ and climate effort language with WPS and C&T.

For the pre-SFIREG meeting, I was asked to receive feedback from states, islands, and tribes on certain potential issues; their responses are below.

Arizona:

- No issue papers.
- Expressed a concern of chlorpyrifos disposal efforts (unused products). Thought they read in FIFRA that farmers could get compensated to get rid of old product.
- Would like EPA's stance on PFAS.
- Asked to receive more information about the bear spray issue. On 11/9/21, EPA provided the following regarding this emerging issue: *The Registrant had contacted EPA with questions/concerns about a proposed rental program. Basically, they said that*

if the product is rented and it's returned with less content in the container, it could affect the future use rate and efficacy because it contains capsaicin. They wanted guidance from EPA about who would be on the hook to make sure this was monitored. EPA responded with warnings about sale, distribution and production regs and the risk of distributing a misbranded or adulterated pesticide in such a rental program.

- COVID-19 product registrations: This has become a big strain on AZ staff...instead of companies releasing products for the sake of human health, some companies are going as far as reaching out to the Governor to get their product sold.

California:

Follow-up questions/concerns from CA Department of Pesticide Regulation (DPR):

24(c):

- EPA approving amendments to state issued SLNs without informing the state
 - EPA 24(c) guidance document for SLN registrations says that In order to process an amendment, EPA must receive the amended 24(c) registration from the state that issued the 24(c). Instead, EPA has been asking registrants directly to amend a state issued label without involving the state.
- States not being informed when a state issued 24(c) is under EPA review.
- EPA asking the Section 3 registrant for a letter when a 24(c) is being voluntarily cancelled by the 24(c) registrant.
 - When the 24(c) registration is no longer needed, the states send a letter to EPA that the 3rd party registrant (grower group) is voluntarily cancelling the 24(c) registration. This has been done for years and has not been a problem that the states are aware of. Now, all of a sudden - EPA also wants a letter from the Section 3 registrant, which makes no sense because they aren't the 24(c) registrant.
- We have heard of other states being 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 programs past registration practices to protect unique resources.
- Although the five-year expiration date requested by EPA to be placed on 24(c)'s is not a legal or 24(c) guidance document requirement, it does pose a burden on the states and 24(c) registrants. Registrants forget to submit a request in a timely manner for an extension, which negatively affects the end user and states are hurrying at the last minute to address the issue.

COVID-19:

- We felt EPA did a good job processing submission in a timely manner and liked the "work-around" they employed to help companies get products registered and out in the market. They were also responsive updating List N as quickly as possible with products that were considered efficacious against COVID-19.
- For COVID related Section 18s, we feel that EPA should have taken the lead since this was a national emergency. Many of the State Lead Agencies were very frustrated that EPA allowed companies to request Section 18s. Companies were not able to meet all of

the FIFRA 18 requirements, including efficacy data (EPA rescinded the SurfaceWise2 section 18) and, in the time it took to vet a COVID 18, EPA could have fast-tracked a section 3 conditional registration. Their handling of this situation created a lot of unnecessary work and frustration for SLA's and for EPA's Minor Use Team. EPA has allowed "including COVID-19" or other similar claims with broad terms (including, such as, etc.) in error.

Chlorpyrifos Tolerance Revocation:

We have many of the same questions Gary Bahr raised in his August 31, 2021 email as well as a couple of others:

- Why is EPA considering only changes to tolerance for granular applied to sugar beets and not the other allowable crops (Corn, onion, peanut, sunflower, sweet potato in CA for Lorsban 15G)? – per David Miller, OPP-HED 9/14/2021.
- Why is EPA considering cattle ear tags in tolerance revocation? How does that use create residues in milk or meat? – per David Miller, OPP-HED 9/14/2021.

Nevada:

- No issue papers.
- C&T Plan: Our plan is being reviewed by EPA headquarters. We are going through our legislative processes though so we can adjust our current regulations to meet the new rule. Our PSEP with Extension is retiring in December; I am working on getting her on full time with use to help edit study manuals and exams rather than having our inspection staff do it.
- Chlorpyrifos: Is there EPA guidance on preparing to stop registering these products on a state level? The final rule is effective October 29, 2021 and the tolerances for all commodities expire on February 28, 2022?
- PFAS: Nevada Division of Environmental Protection (NDEP) is soon to launch a workgroup in response to new state legislation in hopes to develop information related to PFAS in Nevada. NDEP wants a representative on the group from the Department of Agriculture.
- COVID-19 product registrations: We are denying some labels that are not complete, but no big issues. The only thing is navigating through is Grignard Pure. They want to have their product applied during live shows. The Label states: *For use where people are conducting activity deemed essential by the state and allowed by the state lead agency on this label.* Live shows are now open for the public with no restrictions and do not fall under essential businesses.

American Samoa:

- No issue papers; no other issues.
- C&T Plan: Waiting on HQ's review.
- CDX reporting (end-of-year) is complete; CPARD is complete as well.

Ak-Chin Indian Community:

- No issue papers.
- Waiting for EPA guidance on C&T: Trying to determine if they can use Arizona's C&T plan or if they have to draft their own (a M.O.U. template might be the guidance going forward once other plans have been finalized).