

## Region 10 Pre-SFIREG Meeting Report

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Pre-SFIREG Meeting Date: November 4, 2021

Attendees: Approximately 40 attendees, including representatives of Washington State Department of Agriculture (WSDA), Oregon Department of Agriculture (ODA), Oregon OSHA, Idaho Department of Agriculture (IDA), Alaska Department of Environmental Conservation (ADEC), EPA Region 10, University of Idaho, Washington State University, Oregon State University, and Coeur d'Alene Tribe. Additional individuals attended and/or presented on individual topics.

Overview: The Pre-SFIREG meeting was held as part of the annual 3-day Region 10 Pesticides Directors Meeting, which was held virtually via Teams from November 2 – 4, 2021, and hosted by EPA Region 10.

Summary: The Pre-SFIREG portion of the meeting included discussion of several topics, including:

- Biostimulants
- Chlorpyrifos; Existing Stocks, and also future of non-food/non-feed uses
- Draft AAPCO Section 24C Guidance
- Pesticide residues and contaminants
- Pollinator protection

In addition to these topics, states were asked to submit responses for Pre-SFIREG questions posed by Gary Bahr, SFIREG Chair. These included the following questions, with state responses:

1. **Dicamba registrations and the 2021 growing season label issues and cases**: In general, the national issues with dicamba are not relevant to the Region 10 states. Specific responses included:

ADEC: We have not had any issues with dicamba in Alaska. It is not widely used here.

IDA: Dicamba doesn't seem to be a large issue in Idaho, in relation to drift of the chemical and damage to susceptible crops. Most of the damage on a national basis has to do with crops that are not grown in any abundance in Idaho. Idaho doesn't seem to have the issues with volatility of the products and damage. There was one investigation related to dicamba drift, however, with a neighboring bean field reporting damage with sample results testing positive. The conditions contributing to drift revealed in the investigation did not violate the broader label restrictions. Additionally, the complainant was concerned less about wind conditions, more about temperature. The complainant felt the label and/or some type of rule should have restrictions related to temperature

ODA: No comments on this subject.

WSDA: We have no cases, complaints. Our soybean acreage in WA State is very, very small and we grow no cotton. To date these labels have not impacted WA State.

2. **C&T Plan approval processes and the feedback from EPA Regions and Headquarters:** C&T Plan approval processes was a separate topic of the Pesticide Director's meeting, and the states and EPA engaged in a dialog about the process.

Specific state responses included:

ADEC:

We have received both regional and EPA HQ feedback on our plan. We received HQ comments in late August. The comments appeared to demand a lot of additional information that was not requested or addressed previously. In many cases they did not appear to have read the Plan we submitted, as the information they requested was clearly included in the Plan. They also are requiring CEUs to address category topics, which did not make it into the final rule. We believe the review process has been very chaotic and uncoordinated. It's a moving target trying to figure out what is expected.

IDA:

The ISDA did meet with Reg X, EPA Representatives on Idaho's plan. There was some concern from EPA on Idaho's new pesticide rules being temporary, and not permanent. We explained that this was done by the Legislature for all rules, and that we have no say otherwise. EPA was open to Idaho's rule reopening on its normal rotation in 2025, and at that time if issues need addressed, that time frame will work if spelled out in the plan.

ODA:

Comments: We have been reviewing the comments received from EPA HQ in September 2021 regarding our C&T plan. In general, they are very reasonable. However, there are some comments that request more information or justification that are not technically required by the federal CPA rule. Examples: constraints on what classes someone can take (i.e., category specific); Exam data (passing scores, question difficulty, etc.).

After consulting with EPA R10 we now understand these to be optional with regards to our State's plan. However, ODA is happy to provide some example data to support EPA's understanding of SLA C&T programs.

Timeline:

2/1/21 - EPA R10 provided initial feedback on Oregon's C&T plan.

4/1/21 - Oregon submitted a revised plan to EPA R10.

4/14/21 - R10 forwarded our revised plan to EPA HQ.

9/21/21 – EPA HQ comments received.

Requests to EPA:

- Guidance from EPA requested on the following Certification & Training-related question: Do certification requirements apply to custom blenders of RUPs (use = mixing/loading/handling open containers etc).

- Additionally, an update from EPA requested regarding anticipated rulemaking to delay C&T plan approval deadline.

WSDA: WSDA received regional review comments and requests for clarification in April 2021, requesting our amendments by June 1<sup>st</sup>. The questions included:

- Clarification on provisions allowing state to revoke, deny, or suspend a license
- Limited Use Categories needed to be more clearly defined and limiting.
- Clarifying language in competency standards
- Other miscellaneous questions.

The Limited Use Category issue is concerning, as the requirements are very specific and restrictive on what specific pesticides may be used with that category and what the individual's credential must state. This is not feasible for many states, and our license card does not contain that much detail. Most information is housed on the agency website/license search tool.

States also received general feedback regarding a two year implementation timeframe that raised several concerns, as many states require lengthy and burdensome statute and rule update processes. EPA provided some clarification on what they mean by "implemented".

We have not heard any direct feedback from HQ on the WSDA state plan.

3. **EPA Chlorpyrifos tolerance revocation action:** As mentioned above, the states discussed the chlorpyrifos tolerance revocation as part of the Pre-SFIREG meeting.

Specific state responses and questions included the following:

ADEC: We have not had any issues with chlorpyrifos in Alaska. It is not widely used here.

IDA:

This seems to be a done deal and with the registrants voluntarily canceling the registrations and opting not to renew SLN registration, there doesn't seem to be a huge issue with this product. There continues to be a few uses for seed crops, and if that continues for rescue treatment then there should not be any issues. Idaho does have some questions, that need to be answered.

- What should dealers know going forward?
- Will label changes be required to reflect approved use sites? (feed products with tolerances still in place, forestry uses, etc..), if label changes are not required, how is enforcement impacted?

ODA:

- When does EPA plan to issue a Notice of Intent to Cancel (NOIC)?
- When does EPA intend to complete their assessments on non-food/non-feed use sites?
- How will non-food and non-feed uses be impacted?

- What is the fate of containers with Section 3 labels that provide directions for use on both food/feed crops, and also non-food/non-feed crops?
- What is the fate of Section 24(c) registrations that provide directions for use on non-food/non-feed crops, such as certain specialty vegetable crops grown for seed?
- Does EPA intend to assist states with costly disposal issues?

WSDA:

The majority of questions are from agricultural industries that still use chlorpyrifos. Questions received so far are:

- Can post harvest application to tree fruit (apples, other) be considered non-crop use and be continued after tolerances are revoked?
- Can growers petition to maintain uses on specialty crops that have no alternatives? How?
- How will residual tolerance detections be addressed?
- States need guidelines as to how registrants will handle remaining inventory at the distributor and user levels.

4. **Section 24(c) state registration processes:** As mentioned above, the states discussed 24(c) registrations and the draft AAPCO guidance.

Specific state responses included:

ADEC: We have only 2 current SLNs in Alaska and have not had any issues with the process.

IDA: There are no 24(c) registrations that are sought to restrict uses in Idaho. In Idaho, most of the SLN registrations are to reasonably expand the uses or scope of a Section 3 registration so a legitimate use of the product is obtained that will significantly benefit the grower or industry. All benefits must be considered against any existing hazards, and if hazards appear to be significant, there is a good chance the pesticide will not pass the initial scrutiny of review.

ODA:

(1) In the most recent letter to states, the Emergency Response Team encouraged us to cc our regional contacts on our SLN submissions. Is this still EPA's preference?

(2) (a) Many SLAs and some EPA staff participated in the development of the Draft AAPCO Section 24C Guidance, <https://aapco.org/wp-content/uploads/2019/06/aapco-sfireg-pom-section-24c-draft-may-2019.pdf>

Question: When can the SLAs expect an official response from EPA regarding this document.

(b) ODA has historically only issued a FIFRA Sec. 24(c) registration with increased restrictions in association with a new site, for example a specialty seed crop.

In the instances where ODA has found that the EPA Section 3 labels are inadequate in their environmental protections for our local conditions, we have adopted more protective state rules under state statute (also allowed by FIFRA Section 24(a)). Examples would include state laws limiting the use of: chlorpyrifos, aminocyclopyrachlor and certain neonicotinoids on linden trees.

This is a laborious, time-consuming, and often difficult public process in almost every state. Therefore, we strongly support the right of SLAs to issue a 24(c) registration which only provides increased restrictions in order to protect people and the environment. Without this ability, the use would not be available in these states without unreasonable risk. In addition, because there are so many different climate types and specialized conditions in the USA, we support the right of an SLA to adjust the timing of an application in accordance with their local conditions via the 24(c) registration process.

WSDA: WSDA has historically used Section 24(a) to further restrict the use of pesticides in our state (WAC's on state restricted use, county rules.) WSDA does not have any 24(c)s that further restrict the label—we only have 24(c)s that expand the use. We have not had any issues with 24c submissions—as our review process is fairly intensive and includes collaboration with the Emergency Response Team prior to submission of documents. One minor issue that we are following is notifications sent to EPA cancelling an SLN are not showing as cancelled on EPA's website—even though notification letters were sent up to a year ago. We have reached out to EPA on multiple occasions and have yet to get a response on the cause of the delay and when the website would be updated.

5. **PFAS/PFOS in containers of pesticide products:**

State responses included:

ADEC: No specific issues on the pesticide end in Alaska. PFAS is a significant issue in Alaska in other environmental media, including groundwater contamination from the use of aqueous firefighting foams (AFFF), presence in biosolids, and potential presence in landfill leachate and groundwater. EPA should continue to investigate for the presence of PFAS in treated containers, to ensure such containers are not used in other pesticides or products.

IDA: Idaho current does not sell the insecticide of concern with PFAS. We see PFAS/PFOS as a larger concern down the road due to the number of products that have it in it, and issues with ground water and surface water.

ODA: There is a great deal of interest and concern regarding the possibility of PFAS/PFOS in pesticides, farmlands, food, biosolids, and compost. Any information regarding how to communicate to the public and mitigate risks would be welcome. The ODA Pesticides Program is part of a multi-agency group which meets monthly to discuss PFAS issues and concerns.

WSDA: This is a national issue, not state specific. We do not have any specific concerns in WA, other than, we feel this is a TSCA issue, not a FIFRA issue. The issues with PFAs/PFOs use and production must be stopped under TSCA first. However, we recognize that manufacturers/chemist will need to find/develop safer non-toxic liners that are non-reactive for use in pesticide containers at the manufacturing level. I do not feel this should be in the FIFRA wheelhouse.

6. **Bear spray product use, rental, and disposal:** State responses regarding bear spray included the following:

ADEC: Alaska does not feel that this is a significant issue. As far as we are aware, the only violation is that the product may be missing some of its labeling from exterior packaging. However, bear spray canisters we've reviewed have all required information directly on the container. Tampering, loss of integrity, etc are not a significant concern since they would be easy to identify. Proper disposal would be LESS of a concern since the rental scenario would result in fewer canisters purchased and then disposed of. This appears to be a common sense solution to a potentially life threatening problem (bears).

IDA: Idaho is one of the states that could have bear spray rental concerns. We have not received any reports yet. Saying that, Idaho would like to hear from other states on how they are handling these types of cases.

ODA: As of today there have been no issues reported to ODA. Like IDA, ODA would also like to hear how other states are handling these cases.

WSDA: No issues in WA that we have heard.

7. **Treated Seeds and Articles Exemption:** State responses on this item are as follows:

ADEC: No issues in Alaska

IDA: We believe there was one case in FY21 with concern of an overrate application during seed treatment, however the investigation was unable to determine if a violation occurred. Idaho is curious as to what issues other states are seeing in regard to seed treatment.

ODA:

Please continue to work on this issue. The classification of treated seed as a treated article does not allow for adequate regulation, including those regulations designed to protect the environment and worker safety.

Side Issue: The labels for seed treatment products do not appear to adequately address commercial large-scale seed treatment facilities.

Typical Label Statement: "Wastes resulting from the use of this product may be disposed of on-site or at an approved waste disposal facility. Open dumping is prohibited."

ODA is currently collaborating with our state Department of Environmental Quality to assist facilities that have generated large amounts of rinsate which have accumulated during the cleaning of commercial seed treatment equipment. Region 10 is aware of the issue. One concern: To dispose of this rinsate, which contains very low levels of pesticides, as hazardous waste would be costly.

Questions:

(1) Is there a main contact in OPP knowledgeable about seed treatment wastes?

(2) Did the industry collaborate with EPA on their updated Seed Treatment Stewardship Guide document?

[https://seed-treatment-guide.com/wp-content/uploads/2021/02/ASTA\\_SeedGuide\\_Applicators\\_Update2021.pdf](https://seed-treatment-guide.com/wp-content/uploads/2021/02/ASTA_SeedGuide_Applicators_Update2021.pdf)

### **Disposal of Rinse Water from Seed Treatment & Planting Equipment**

Minimize rinse water – wash out equipment only when necessary. Never pour rinse water onto the soil, groundwater, surface water, or septic systems. Re-use rinse water from **seed treatment equipment** to dilute the next batch of formulation, but only if using the same seed treatment recipe. Factor in the potential for increased concentration of active ingredient, if significant amounts of rinse water are used. **Excess rinse water from seed treatment or planting equipment may be applied to a crop or site for which the active ingredient is registered if it will not result in an applied concentration above the labeled rate** (from [The Guide to Seed Treatment Stewardship](#)).

WSDA: We have not had cases lately with treated seeds causing harm. However, we did have a recent case of dumping of treated seed allegedly to control deer... but a fish and wildlife officer spotted the pile of purple/pink seed in the field and reported to us. Additionally, I read about a case that our state Department of Ecology had a couple years ago with miss management of treated seed at a seed treatment plant resulting in a large fine for that manufacturer. Unfortunately, there was no notification or communication from Ecology to WSDA on this case and thus there was no FIFRA case.

8. **Paraquat Labeling - Certified Applicator Requirement**: State responses on this item are as follows:

ADEC: No questions or issues for Alaska

IDA: No significant comment from C&T side. From an enforcement standpoint, this has not been an issue in FY21.

ODA:

#### **Issue Summary:**

EPA has indicated at the most recent Joint Working Committee meeting and through their input on the recently updated AAPCO Paraquat FAQs that those performing non-application use of paraquat products (mixing, loading, storing, disposing, etc.) do not need to take the label-mandated training. This is a less protective standard than what has been communicated by EPA in all other previous formal communications as far as we are aware.

However, the EPA website and online paraquat training include statements indicating that the label-mandated paraquat training is required for all paraquat users, not just those applying paraquat. Examples are included in the Appendix at end of Region 10 report.

This mixed messaging can create confusion among the paraquat user community, and is difficult for State Lead Agencies to explain as no explanation has been provided by EPA regarding this change in standard.

**Possible Action Items:**

1. Request that EPA update its website and other associated platforms under its purview, and formally communicate appropriate changes to NPSEC so that the online training can be updated.
2. Request that EPA provide an explanation to SLAs indicating why this change in training standard is being adopted.

WSDA: No questions.

- 1) We have developed factsheets for our applicators available on our website.
- 2) We expect there may be some mis-use in coming years in fruit orchards, vineyards and the like as this was a primary use for sucker control using ATV and backpack methods of application. Hopefully they will find replacement materials and stop any use via backpack as existing stocks of old labels are depleted.
- 3) Concerns and questions about closed systems now required on the latest label for product transfer will hopefully be resolved by the registrants in providing adaptors the applicator can use during transfer.

9. **COVID-19 product registrations and also devices:** There was a good discussion among states concerning COVID-19 related pesticide product issues. State responses included the following:

ADEC: Some issues related to pesticide generator devices has arisen during COVID. We would like to see clearer guidance about on-site generation, and what is meant by “on-site”.

IDA: More issues with possible unregistered products finding their way into the state through loosely regulated online sales than with product registration issues. There are some issues with 25b products, however most of these issues are multi-state, so ISDA can collaborate on appropriate actions when necessary. No issue with devices. In addition, this was a steep learning curve in FY21 in working with EPA and issuing SSUROs. Between inspection/product discovery and issuance of SSURO, product sometimes had been disposed of, sold, transferred, donated, or returned.

ODA: ODA would appreciate a clear and consistent referral process for distributors outside of our state and region making off-label claims. More specifically, referrals involving when the issues are identified in distributor registration application reviews, but the product has not been found to have been sold or distributed. Even after the COVID-19 pandemic, we will encounter distributor labels (disinfectants or otherwise) that warrant referral and are outside of Region 10. Have other states/regions experienced similar issues re: lack of clear and consistent referral process? Any ideas from SLAs or EPA on how to improve this process and make it more transparent? Comment from an ODA registration specialist: "I feel like my referrals have gone into a black hole."

WSDA: We do not have any new issues or concerns at this time. Washington’s Attorney General’s Environmental Protection Section took criminal action against a company that created a business of fogging health clubs, hotels, etc. for profit and made claims of guaranteed number of days to be “COVID Free”. These uses occurred primarily in our largest urban county King County (Seattle metro

area). Our agency was not contacted prior to AGO's investigation, our agency received no complaints. The AGO was able to begin fine level at \$50,000 – basically for fraudulent activity. We do not have this kind of authority or fine level. The company was also improperly repackaging product for redistribution via their franchisees.

10. **EPA actions and Pet Collar and ingredient issues:** None of the Region 10 states report any issues related to pet collars and ingredients.
11. **ESA and Pesticide evaluations, Labels, and Bulletins Live2:** State responses related to this item include:

ADEC: No new concerns from Alaska.

IDA: The only issue with anything having to do with the ESA is making sure that EPA gets information out to the SLA's in advance of any activities they are wanting with the labels or bulletins live. The first push with the Bulletins Live didn't have much activity due to various reasons, most was the lack of bulletins for the labels. Idaho is curious what others are doing.

ODA: No comments on this item.

WSDA: We continue to watch for updates related to species in WA. We are doing our best to comment on BIOPs utilizing our ESA funding from EPA.

12. **New Issues:** Any new Issues that might develop into White Papers or Issue Papers.

Potential items for White Papers or Issue Papers include:

- 1) Contaminants in pesticide formulations and difficulty with residue sample "noise" in our cases. Our Chemical lab regularly finds background residues of multiple pesticides that may not have been recently applied or could be deposited from air background levels. Is there a thought of setting a detection limit for enforcement actions?
- 2) Devices concerns broadly - FIFRA update to today's devices needed.
- 3) Possibly additional Biostimulants guidance?
- 4) It is not uncommon to have SLITS responses which are incomplete or not responded to in a timely manner. SLITS is a very important mechanism for the SLAs.

Potential discussion issue: Does the Labeling Consistency Committee (LCC) still exist (<https://www.epa.gov/pesticide-labels/ways-obtain-assistance-pesticide-labeling-issues>; <https://www.epa.gov/pesticide-labels/forms/pesticide-labeling-questions-answers-form>)? **If so, could SLITS questions be directed to the LCC rather than to the Product Manager?** This way, several people could look at the possible problematic language, and assess whether the language on the EPA Stamped/Accepted Label should be modified.

5) Unmanned Aircraft Systems (*i.e.* UAVs), Autonomous Sprayers and Driverless Tractors guidance.

## **APPENDIX: Supporting Items**

- 1) Paraquat Examples (Supporting ODA comments on Paraquat in Question 8 above)

### **AAPCO Paraquat FAQ**

[https://aapco.org/wp-content/uploads/2021/11/Paraquat-FAQ-Document\\_11-8-2021-2.pdf](https://aapco.org/wp-content/uploads/2021/11/Paraquat-FAQ-Document_11-8-2021-2.pdf)

#### **10. Who is required to take the paraquat safety training?**

Any person who applies paraquat must be a certified applicator and must take the paraquat safety training. However, EPA encourages all persons who handle paraquat to take the training. This includes activities like transporting, storing, or disposing of paraquat-containing product, and cleaning or repairing equipment.

#### **Examples :**

- EPA Website  
<https://www.epa.gov/pesticide-worker-safety/paraquat-dichloride-training-certified-applicators>

## **2. Who is required to take this training?**

Any person who intends to use paraquat must be a certified applicator and is required to take the training. "Use" includes pre-application activities involving mixing and loading the pesticide; applying the pesticide; and other pesticide-related activities, including, but not limited to, transporting or storing opened pesticide containers, cleaning equipment, and disposing of excess pesticides, spray mix, equipment wash waters, pesticide containers, and other paraquat-containing materials.

- Online Paraquat Training  
<https://campus.extension.org/course/view.php?id=1660>

## NEED TECHNICAL HELP

For help with course content or progress, please reach out to your course teacher using the Course Contacts block below. Otherwise, for other technical issues, use our [Campus Help page](#) for assistance.

## NAVIGATION

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Paraquat

## Enrollment options

## How To Safely Use and Handle Paraquat-Containing Products

Teacher: Peg Shuffstall  
Instructor: Mike Cameron  
Instructor: Courtney Weatherbee

A Spanish version is available! [Click here for a Spanish version of this course.](#)

Paraquat product labels require applicators to take an EPA-approved training every 3 years in order to mix, load, apply, or handle paraquat. This online course reinforces how to properly and safely use paraquat.

You should expect to spend about 60 minutes on the course and the assessment quiz.

If you already have an eXtension account and are logged in, click on the title a of the course (above) and log in to begin the training.

If you do NOT have an eXtension account, click on the continue button below takes you to the log on screen. Scroll down to "Is this your first time...". Click on the "create new account button."

Once you have completed the required information in the form (select NA in the last drop-down box if you are not an Extension, University, or Government employee), click on **Create my new account**. You will then get an e-mail sent almost immediately that will say: *A new account has been requested at 'eXtension Online Campus' using your email address.* To confirm your new account, click on the link and it will take you back to the eXtension Online Campus site, where you can click on **Continue**. This will take you to the training page with a button that says **Enroll me**. Click on this and you can start the training.

# HOW TO SAFELY USE AND HANDLE PRODUCTS CONTAINING PARAQUAT

Hello, and thank you for participating in this paraquat stewardship training. Successful completion of [this training](#) is required for any certified applicator who wishes to use [paraquat](#).



If you need to exit the training at any time be sure to click the "SAVE & QUIT" button at the top right of your screen. Failure to click the "SAVE & QUIT" button can result in losing your progress.

CONTINUE

- [Paraquat Dichloride Human Health Mitigation Decision https://www.regulations.gov/document/EPA-HQ-OPP-2011-0855-0115](https://www.regulations.gov/document/EPA-HQ-OPP-2011-0855-0115)

## **b. TRAINING MATERIALS**

EPA is requiring all applicators who **handle** paraquat to take an EPA-approved paraquat training program. EPA-approved paraquat training programs must provide information on: (1) paraquat toxicity; (2) a summary of the new label requirements and restrictions; (3) consequences and examples of misuse of paraquat; (4) how to apply paraquat with various application methods, including ensuring all connections are tightly fit (especially backpack/handheld equipment); (5) what to do in case of accidental exposure, and (6) appropriate handling, storage, disposal, and personal protective equipment requirements and instructions.

- Response to Public Comments on the Paraquat Dichloride; Propose Interim Mitigation Decision  
<https://www.regulations.gov/document/EPA-HQ-OPP-2011-0855-0113>

**Comment:** Syngenta supports paraquat users having the option of either taking the proposed paraquat specific training as part of the state based Certified Applicator training programs or through an online training module that they propose be housed on the EPA website (<https://www.epa.gov/ingredients-used-pesticide-products/paraquat-dichloride>).

*EPA Response: EPA is maintaining the requirement for paraquat **users** to take a paraquat specific training, which is to be developed by the registrants and approved by EPA. Paraquat labels will link to the on-line training and, for ease of access, EPA will consider providing a link to EPA-approved training on the paraquat website.*