

EPA Region 2 Pre-SFIREG Meeting Report

Submitted by Anthony Lamanno, EPA Region 2 SFIREG Representative.

The EPA Region 2 Pre-SFIREG meeting was held virtually on October 28, 2021. New York, New Jersey, Puerto Rico, and the US Virgin Islands (Region 2 states); EPA Region 2; and EPA Headquarters participated in the meeting. The following are some of the topics discussed during this meeting:

Overview of EPA's decision to revoke food tolerances for chlorpyrifos- Dana Friedman, Melissa Grable, and Alexandra Feitel, Office of Chemical Safety and Pollution Prevention, provided information related to the EPA's decision to revoke the chlorpyrifos food tolerances. To set a tolerance EPA must make a safety determination that there is an expectation that the pesticide will not cause harm. In the case of chlorpyrifos EPA was unable to make this determination; therefore, it was necessary to cancel all tolerances. The tolerance cancellation is set to go into effect February 28, 2022. However, there have been over 80 organizations objecting to this action.

It was explained that the tolerance cancellation is only one aspect associated with the use of chlorpyrifos pesticides. The second consideration involves the pesticide product registration. EPA is considering the next actions associated with this pesticide, which may include product cancellation or significantly limiting use patterns.

The Region 2 states would like to see additional information from EPA on this tolerance revocation and any potential product cancellations for chlorpyrifos in the future. EPA indicated that they will be updating the information in the Frequently Asked Questions associated with this action.

USEPA overview of the new work plan format and database- Emily Ryan, Office of Chemical Safety and Pollution Prevention, discussed the use of the new database for work plans and reporting from states. This new system will replace existing systems to capture similar data, including the separate reporting the states have been completing associated with pesticides in water. The existing database associated with pesticides in water will no longer be supported by EPA

The new database will be required for work plans and reporting for the 2022-2025 grant cycle but is optional for fiscal year 2021 reporting. It is anticipated that this new system will provide enhanced ability associated with program evaluations and better access to information.

Certification and Training Plan approval process and feedback from EPA Regions and Headquarters- Tara Glynn, EPA Region 2, Chemicals Management Section, Chemicals and Multimedia Program Branch, Land Chemicals and Redevelopment Division, provided an update on the Certification and Training Plan approval process. All of the Region 2 state plans have undergone initial review both in the EPA Region and Headquarters. In all cases comments have been addressed or are in the process of being addressed in anticipation of plan approval. It is anticipated that the approval

process may be completed prior to the March 4, 2022 deadline, although EPA is considering an amendment to the Certification and Training rule to allow for more time associated with the plan review and approval process. In many cases COVID-19 has caused delays in the process; therefore, allowing additional time for this process would be beneficial.

USEPA workplan inspection commitment letter- The Region 2 states and EPA Region 2 staff discussed the EPA September 28, 2021 letter regarding inspection work plan commitments. This letter and enclosure provided an extension to allow states to use various compliance monitoring techniques until December 31, 2021. These techniques may include on-site inspections, off-site compliance monitoring, or combinations of the two to meet inspection commitments. Currently, the Region 2 states do not believe that they will need to use the off-site compliance monitoring to meet their EPA work plan commitments.

EPA Region 2 state pesticide legislative proposals- It was asked that the Region 2 states share any legislative proposals that may impact pesticide regulation. New York recently had legislation passed to prohibit the use of glyphosate on state property, unless permitted for critical uses. The exemptions for critical uses were written into the law; however, the New York State Department of Environmental Conservation is required to develop regulations to further refine the parameters for glyphosate use on state property.

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 December SFIREG meeting:

Dicamba registrations, the 2021 growing season label and cases- The Region 2 states did not identify any issues with the use of dicamba products and are not aware of any complaints, enforcement, drift incidents, or problems associated with the off-target movement of Dicamba products.

24(c) state registration process- The 24(c) approval process was discussed during this meeting and New York and New Jersey expressed concerns about the current process for 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. Without this option states are often forced to deny a registration of a product until a federal label change is completed. This denial may leave pesticide applicators at a significant disadvantage associated with the control of certain pests. In addition, the process to regulate specific uses using section 24(a) is a time-consuming process and is typically ineffective as a short-term solution.

PFAS/PFOS in containers of pesticide products-The Region 2 states did not identify any new issues regarding PFAS/PFOS in pesticides and containers and did not identify an immediate need for assistance associated with this matter. However, the Region 2 states look forward to guidance from USEPA on how to proceed with this issue, including the final disposition associated with any remaining containers identified in the initial complaint. In addition, the Region 2 states believe it would be helpful if information on EPA's response to the larger issue associated with sources of PFAS/PFOS in general could be shared.

Bear spray product use, rental, and disposal- The Region 2 states are not aware of any issues with the use, rental, or disposal of bear sprays.

Treated seeds and articles exemption-The regulation of treated seed is still a concern for the Region 2 states. For some time, New York has been engaged in discussions regarding the regulation of certain neonicotinoid pesticides and neonicotinoid treated seed to protect pollinators from potential neonicotinoid exposure. A bill was introduced in New York requiring additional regulation of certain neonicotinoids along with the regulation of neonicotinoid treated seeds as pesticides. The bill accomplishes this objective by amending the definition of pesticides in the New York State Environmental Conservation Law to include certain neonicotinoid treated seeds. A Legislative hearing was held as part of this ongoing discussion, which included testimony from the New York State Department of Environmental Conservation. During this testimony and questioning it was pointed out that the regulation of treated seeds and their classification as a pesticide largely relies on an EPA determination of how treated seeds would be regulated. Moreover, this EPA determination may view treated seeds as treated articles or possibly identify them as being regulated by another agency.

It is likely that this legislation in New York State will be moved forward for finalization soon. Region 2 previously introduced this topic to SFIREG where it was deliberated by the POM committee. The Region 2 states request that SFIREG continue to explore this matter and coordinate with EPA and other involved agencies to establish a national position regarding the regulation of treated seeds.

Paraquat labeling, training, and certified applicator requirements - The Region 2 states did not express concern or have any questions regarding the Paraquat use requirements. They believe that the training is suitable, covers the appropriate information, and its availability in Spanish assists applicators. In addition, the Region 2 states haven't found that the requirement for a certified applicator to use this product has caused concern for Paraquat users.

COVID-19 product registrations and devices – The Region 2 states and EPA Region 2 were asked if they had any concerns associated with COVID-19 related pesticide registrations or devices. There were not any pesticide registration issues mentioned; however, there still seems to be a concern about devices making public health claims related to COVID-19. The limited efficacy data associated with the use of devices for

COVID-19 control or any other public health matters has caused concern for the Region 2 states since it is unknown if devices are effective. Although the Region 2 states and EPA Region 2 recognize that the regulation of devices is limited there is a request for EPA to enhance the regulation of devices making public health claims.

Pet collar and ingredient issues -There were no issues related to pet collars or their active ingredient raised during the EPA Region 2 Pre-SFIREG meeting.

ESA pesticide evaluations, labels, and Bulletins Live 2-There were no issues related to the Endangered Species Act pesticide evaluations, labels, or Bulletins Live 2 identified during the EPA Region 2 Pre-SFIREG meeting.