

Region 8 Pre-SFIREG Meeting Report

Submitted by Kima Traynham,
US EPA Region 8 SFIREG Representative
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The Region 8 Pre-SFIREG meeting was held by teleconference on September 28th and 29th, 2021. The continued pandemic prevented an in-person meeting; several attending expressed regret the meeting was not in-person.

Because of the call-in format, the meeting was abbreviated to 10 hours over two days and consisted of topics in which states were interested, as well as several EPA presentations and updates. All states in the region (CO, MT, ND, SD, UT, WY), along with representatives from several Tribes (CSKT, Standing Rock, MHA Nation, Cheyenne River Sioux, Oglala Sioux, Rosebud Sioux) and Region 8 EPA leadership and staff were in attendance.

Updates were provided by individual states and tribes. Several related that new technologies (online training for CEUs) or new ways of approaching routine work (teleworking) that were implemented during the Covid-19 response are becoming permanent, either as additional flexibilities or as improvements over traditional methods. Several states mentioned a continued uptick in complaints over pre-Covid years; this was assigned in part to more people at home observing routine applications as well as to new residents in many R8 states unaccustomed to agriculture. While many of these complaints did not require full investigations, it did take time and program resources to respond.

Outgoing R8 SFIREG Representative Henry Nahalewski provide a SFIREG update. Region 8 EPA leadership provided updates, including those on C&T plans, AEZ, FIFRA Workplans & EOY reports, the R8 Climate Change Adaptation Implementation Plan, and the new FIFRA Grant Database. A R8 Enforcement update with discussion of focus areas and priorities was also provided: devices, disinfectants and Federal Credentialing for inspectors were included topics.

Additional areas discussed before the break-out included Dicamba, Ivermectin, and Chlorpyrifos.

State Breakout meeting covered the areas requested by SFIREG:

Dicamba registrations and the 2021 growing season label issues and cases:

- ND & SD have had significant issues; other states do not have issues or have limited use/no OTT Dicamba labels in their states.
- In general, preemergent and early post applications seem to be non-problematic, later OTT applications more likely to move.
- One significant issue mentioned was that climate/atmospheric conditions are variable year to year, so calendar-date label restrictions are not ideal.

C&T Plan approval processes and the feedback from EPA Regions and Headquarters:

- Most states have gotten comments back on plans, some just before the meeting.
- Comments were described as detailed oriented, not major issues.
- Several states concerned about a disconnect between EPA desire for clear path to implementation and uncertainty in both Rules processes and legislature approvals. Hard to project sticking points. It may take 2 legislative sessions to get adopted, followed by rule changes.

EPA Chlorpyrifos tolerance revocation action:

- Concern about the way this decision was made; based on politics not science.
- Comment by EPA OPP to states that tolerance was revoked in part because EPA “can’t prove aggregate exposure *doesn’t* cause” health issues was criticized as making any active ingredients vulnerable and a reversal of the historic standard. Precedent to challenge any and all pesticides. Contradicts EPA mandate to make pest control products available.
- Concern that insect resistance issues were not considered.
- EPA statement of “No significant impact to states” described as having no basis and broad.
- Question about plans for disposal for product already in channels of trade.

24(c) state registration processes:

- The EPA change to restrict 24C labels to adding uses was described as putting states in a hard spot by taking away the ability to react quickly.
 - 24A takes time to implement and would involve a lengthy process to undo.
- Concern that States using 24A to restrict uses would face lawsuits from registrants.
 - States do not have data nor ability to defend.
- Concern expressed regarding the denial of 24C labels described as well within allowed 24C parameters (expanding Federal label uses). 24Cs submitted by non-R8 states (NC & TX) denied in order to get 1 year of data under existing Federal labels. Not in line with FIFRA.

PFAS/PFOS in containers of pesticide products:

- No states reported action on PFAS / PFOS
- States expressed frustration on not getting information directly from EPA. SLAs hearing from Ag Commissioners who were informed by NASDA, rather than SLAs informing their Commissioners.
- Request that AAPCO/SFIREG push EPA to be more forthcoming; provide more frequent updates to SLAs. Henry Nahalewski (UT) pointed out the delay on PFAS information may be due to waiting on testing, with those results taking 6-8 months.
- Request for list of products involved.

Bear spray product rental:

- Background: Not a product label or manufacturer issue; 3rd party companies renting bear spray canisters in National Parks, providing airport kiosk pickup/drop-offs, etc. WY referred issue to EPA R8 in Q1 2019; it was sent to R8 attorney, no response. Summer 2021, WY discussed with AAPCO President; then it was brought to SFIREG. Now understood to be multi-state issue (WY, CO, MT).
- Concern as to if product labels are being provided, container integrity.
- Potentially fatal consequences if bear spray fails.
- Primary concern of WY is the lack of response to the initial referral to EPA on the issue.

Treated Seeds and Articles Exemption:

- General discussion of history of issue, improper disposal of treated seeds and environmental impact. Large quantities of waste seed produced every year.
- States reported no specific issues or concerns

Paraquat Labeling - Certified Applicator Requirement:

- Comments that new label requirements for training of applicators still have not gotten out to users; SLAs still getting questions about training. (3 years in)
- 3rd party conducting training creates a regulatory hurdle for SLAs to prove compliance with training requirements.
- Comment that this seems like a “feel good” effort with little follow-up or evaluation of impact.
- Questions regarding paraquat training:
 - Are there competence standards for 3rd party training?
 - Is there any tracking of results or system to compare metrics before / after training? Any fewer complaints?

COVID-19 product registrations and devices:

- Devices: CO registers devices; others do not. CO says they have been flooded with device registration requests due to Covid. Take lots of resources.
- CO works closely with R8; sees Region 8 as willing to help but lacking support of HQ.
- Covid Disinfectants Label have much improved since last year
- Disinfectants not viewed as pesticides by many, thus no one looks at regulations. Allows fraudulent products to avoid repercussions.
 - Request that EPA should consider outreach to industry; raise awareness of disinfectants being pesticides and the appropriate regulations.
- Distributed products: Seeing these with improper claims on the distributor label. Original registrant should be held responsible for distributor false claims.

EPA actions and Pet Collar and ingredient issues:

- No states had received reports of issues.

(Sidebar)

EPA – Proposed Reregistration decision for Pyrethrins:

This conversation came about following the pet collar topic. Notice of proposal to discontinue use in pet/livestock products in the works. Huge impacts for both pets and livestock uses in R8 states (ND).

- ND had reached out to point person listed on the Aug 2, 2021, Fed. Reg. notice. Took a month to get a response, not helpful with looming deadline for comment. ND created summary document; a coalition of Ag groups asked to extend comment deadline. ND State Vet had concerns for humane care if proposal implemented. Not enough awareness of this issue and felt another 60 days were needed to comment.
- CO mentioned this potentially could impact hemp/cannabis industry.
- Notice included several pesticides, beyond pyrethrin: Amitraz, cinnamaldehyde, difenoconazole, farnesol and nerolidol, fenbuconazole, isoxaflutole, mesotrione, metaldehyde, MGK-264, *Nosema locustae*, oxadiazon, oxyfluorfen, piperonyl butoxide (PBO), pyrethrins, tembotrione, topramezone, *Ulocladium oudemansii* (U3 Strain)
- Henry Nahalewski (UT) said he would contact Gary Bahr, raise the issue asap as comment closed the following Monday.

This also included a general discussion of Reregistration proposals/PID coming out in Fed Register. Difficult to find; harder to find who to contact. These notices are being missed by SLAs and other stakeholders.

(Post Meeting) Gary Bahr submitted letter on behalf of SFIREG asking for extension; EPA wanted to consider specific pesticides rather than entire group included in the notice asked for specific pesticides.

- Too complex a notice to easily sort which pesticides warrant comment, thus all needed extension.
- New EPA website makes it very difficult to access the information.
- Kimberly Pardue Welch shared her communication with the Pesticide Re-Evaluation Division in OPP. Comments may be sent to the Chemical Review Manager past the October 2nd deadline. They will still post them to the docket.
- John Scott (CO) shared reference sheet on uses for the actives included in the Notice. Initially unable to find the registration review decision or received error messages trying to access. Difficult to evaluate if can't see recommendations.
- Appreciation to Eric Delzer and ND for catching this and bringing it to R8 states' awareness, and thus bringing it up for the nation: It seems few other states were aware.
- Gary Bahr reported comment period for three pesticides were extended 30 days (11/4): Pyrethrins, PBO, MGK-264. Also a 30-day extension for: oxadiazon PID; triadimefon/triadimefon DRA (different docket)

ESA and Pesticide evaluations, Labels, and Bulletins Live2:

- Frustration expressed about old data being used to create ESA bulletins: States have no input, and states have better, newer data than that being used. Example: Dicamba (ND) Now 9 counties have ESA Bulletins; before that there were 0. ND couldn't make sense of what counties were included: data state had did not support some counties included; others that should have been included in bulletins were not.
- ND heard about ESA county bulletins from product dealer who heard it from product reps. SLAs would prefer to be more involved in decisions and get better notification.
- Comment that ESA bulletins leave applicators mystified. Protected species may be in a very small area of county; not well known. Very little information available to help applicators understand why there is a restriction; hard to get acceptance.

New Issues:

Common theme thru SLA Breakout conversations: COMMUNICATION

- Not issue with EPA Region, rather with HQ
- HQ should communicate more directly to SLAs and other agencies (Wildlife; Environment/Ecology) keeping pertinent data
- Long lag time for communications with HQ – 4/5 weeks or longer
 - Okay for some issues; unacceptable for others.
 - There should be some acknowledgment of request; SLAs have no idea if response is even coming.
- Request for more frequent updates, more information on current topics provided to SLAs by EPA.

ND requested update on SFIREG whitepaper on beekeeper misuse of pesticides.