

SFIREG Meeting

December 6, 2021

Ed Messina (EPA OPP): Pesticide Program Updates

Supply Chain – COVID has caused some supply chain relief, working with registrants to help with supply chain issues

2022-2026 EPA Strategic Plan Framework - Got some feedback, working towards goals set forth in the plan

Questions

Leo Reed (IN) – Are we going to know what is happening with dicamba in the next growing season? Ed: Don't know and is hesitant to give an answer

Tim Drake (SC) - Will the deadline for C&T be extended? Ed: Confident that OPP is doing everything they can to work towards the deadline; not sure when or if they will extend the deadline

Pat Jones (NC) - Request for 6a2 reporting > discussion about unreasonable adverse effect, cupping of a soybean was not unreasonable; Ed – Look at the court decision about dicamba and the societal impact to growers; Pat - we will start our training sessions in January, so need updates soon; Ed – ESA overlay; states will have to show that the applications are not a threat to endangered species as well

Brett Alan (AL) - Application of chlorpyrifos to food crops like sugar beets? Ed: Any food product that had a tolerance, that tolerance is going to go away in Feb. 2022; some labeled uses apart from food crops those positions of the label will still be valid

Liza Fleeson Trossbach (VA) – Some states in R2 haven't received comments back from EPA, how is EPA going to meet these deadlines? Ed: Have a tiger team working on comments and feedback nationally to get information back

Kristen - Has it been brought to your attention that there are issues with drift language on mosquito products? Ed: Hasn't hit his radar yet; some products are designed to drift and take that into account with human health risk assessment

Pat Jones (NC) - Scott brought it up at EQI last quarter; Ed: Emily will set up meeting with EPA (Ed) and R4

Megan Patterson (Maine) - But the issue is with individual residents contracting for services and drift from mist blowers impacting neighbors. It's also an issue in Maine.

David Flakne (Syngenta) – Would seed production be a non-food use on chlorpyrifos; Ed: Would need to know more about the type of seed (some studies have been shown that seed treatment can make it's way into the fruit) to give an answer about this, tolerances need to be set

David: Seed production may be two to three generations prior to the planting of the final hybrid or crop planted for food production. So not to the seed being planted, just in research etc.

Gretchen Pollack (R7) – When would you expect more info on existing stocks policy for chlorpyrifos? Ed: There will not be an existing stocks policy (right now you can still use it, issued notice of intent to cancel for Feb. 2022)

-What about stockpiles of chlorpyrifos? Ed: There are uses that are allowed on the label; EPA trying to be respectful of the court's decision

James Burnette (NC) - with respect to PFAs, we are especially concerned about what EPA might decide as far as disposition of containers--we recycle approximately 700K pounds of plastic pesticide containers every year here in NC. If suddenly a third of those could no longer be recycled but must be otherwise disposed of, it would quickly overwhelm our pesticide Disposal assistance program's resources.

Faye Golden - Could Ed address PPE requirements (gloves) on labels for new products? I have noticed the glove requirement of > or = to 14 mils for products with low risks of exposure. Examples include Nibor D Insecticide Foam and IGR (EPA Reg # 64405-37) and ExciteR 55 (EPA Reg # 89459-109). Is there a guidance document available?

Yvette Hopkins (EPA) – Reviewed OPP Updates (Available online)

Issue Papers Update

-Lauren Lapointe from Yvette's dept. is working on Pollinator Paper

-Device Paper – Meeting with antimicrobials; no resources to work on that issue paper, nothing on tap on FY22

-Bear Spray Paper – Looking into the issue from R8; Working with agencies to give updates as they are available

Kelly Engle (EPA) – OECA Report

-If any state is interested in hosting a virtual or in person PIRT email Kelly; Tribal PIRT is tentatively scheduled for May 2022; Basic PIRT for July Aug 2022; Enforcement PIRT October 2022; Updates on the PIRT webpage

-Inspection Flexibility Letter – two prev. versions released, most recent version of the paper shared Sept. 2022; info on how to meet inspection commitments during COVID (extended); Inspections can be counted for 2022; Off-site (virtual) can be included in EOY forms (considered off site compliance), but don't count as inspections, should be added to narratives attached, etc.

Debra Forman - The whole 24C process was quite complex and at times the states were concerned about protecting unique resources because of this process; C&T issue in R3, some states haven't gotten back comments from headquarters (concerned about the timeline); Stockpile of chlorpyrifos (Ed addressed this); PFAs issue should be addressed from a multifaceted perspective ; Regulation of neonic treated seeds; Limited availability of adapters for paraquat containers (Syngenta should supply applicators with every sale of paraquat)

Carroll Mosley (Syngenta) - Would like to know where issues with adapter availability are located so they can address this and provide adapters (R10, R4, some reporting to EPA); Gary: Will get you some info

Amy Brown - (POM) Update

<https://aapco.org/wp-content/uploads/2021/12/POM-Report-to-SFIREG-of-Activities-of-the-Committee-Dec-2021.pdf>

-Many states having issues with the dicamba label; some states having more issues with dicamba in 2021 than in 2017

-PFAs discussion

-Pet Collars & Products – EPA provided a detailed report; letter was sent to registrants from EPA providing information about the issues; petition to cancel Seresto collar registration is ongoing; EPA created a new website about protecting pets from fleas and ticks; over 5,000 public comments were received; many recordings are available related to this topic

-Addressed all questions about Chlorpyrifos in meeting

-Looked at the guidance about multipacks and had a meeting with EPA

-Not aware of any POM items that require action from SFIREG currently

BREAK

Hotze Wijnja – EQI Update

-Relative to the joint session > Amy Brown went over dicamba; Megan Patterson gave a presentation about PFAs, including updates like fluorinated adjuvants will be regulated; EPA staff went over a list of questions submitted during the April meeting (answers posted on EPA FAQs website)

-PFAs Issues – Would like to discuss the definition of PFAs, would also like to investigate laboratories available to test for PFAs

-Breakout Sessions – One discussed issue paper on cover crops, EPA made a working group and sent response in Nov. 21 (addresses definition of cover crop, label language, bioassays, coordination with USDA and RCS, use as food/ forage)

-PFAs discussion with Megan Provost (RISE) to get information about education and outreach efforts

-Neonic treated seeds – Water quality and residue are both focus topics associated with this issue, meeting with EPA where EPA pointed out some regulation limitations for treated articles

-Water Quality reporting system is new and guidance is needed

-Mosquito control mist blower was brought up by Dave Scott (IN), discuss and presentation highlighted the needs to evaluate off target drift issues related to use of these blowers (White paper to be developed)

-Larry Steckel (WSSA) presented on dicamba, will continue to follow dicamba updates

-Aquatic life benchmarks – EQI considering developing guidance document on how to interpret these benchmarks on a state level

Pat Jones – AAPCO Update

Member Updates

-C&T Training Plans & Reviews > concerns with the timeline; some changes implemented after the C&T work course; there was an inconsistency issue with the type of comments states were receiving (i.e. specific language, differences in the regions); jurisdictional statement in the plan has risen a lot of questions; is it for use or purchase (ex. In VA and NC we will recognize certification across state lines); many RUPs are purchased online (ex. Delaware doesn't have a RUP dealer in their state); Concerns with adding FIFRA 14 a & b to laws in many states (several states have been doing certification for 30+ years without this); Many concerns about regional review and the amount of time its taking to get comments back

-Devices > AAPCO sent a letter about devices that produce pesticide substances; tons of concerns about public health issues (devices are only devices used in hospital); chlorine gas is not being used in swimming pools like previous though, but now devices are used for swimming pools; AAPCO, ASCPRO, NPMA collaborative effort

-AAPCO Workgroups > 25(b) work group new chair Sarah Caffrey; Technology work group new chair Dwight Seal and looking for members; Pollinator Protection work group Rose & Pat are co-chairs and are looking for members

-Other Committees > SFIREG: Gary will serve another year as chair; POM: Amy Brown; EQI: Hotze

-Other Issues > AAPCO is not sending another letter to cancel dicamba; states ability to issue a 24(c) is currently in question, had a call with EPA about 24a and states feel that it is not a solution unless the change made would be permanent and with dicamba being an ever changing issue it is not feasible; pollinator white paper changes will be on the horizon, beekeepers may be regulated in the future

-AAPCO 75th Annual Conference 2022 March 6-10 in Alexandria at the Hilton > will not have all the virtual capabilities previously available (Liza Fleeson Trossbach - Program Chair/ New President Elect)

Ryan Okey (ASPCRO President) – ASPCRO Report

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Jim Mossett & Mark Daniels - Tribal Pesticide Program Council Report

Update on Four Working Groups

-Risk assessment > Develop risk assessment based off tribal culture and practices which can differ from normal practices, would like to develop document assessing issues faced in tribal life; one issue with hemp and cannabis inspections not being completed because federal inspectors will not complete inspections

-Communication > Issues with this because of the difference in types of tribes/ tribal land; would like to strengthen communication about implementation of FIFRA; lack of EPA funding to meet direct implementation of FIFRA; lack of structure when it comes to environmental framework for tribes (lack of

employees, no organization); EPA initiatives aren't always hitting the mark, tribes aren't organized enough to challenge EPA initiatives; some issues with new tribal training (ex. Structural applicator certified through EPA but will not be certified on reservations); 574 tribes only 22 are involved; EPA needs to recognize and hear the voice of the tribes

-Hemp & Cannabis > Politically not wise for tribes to establish cannabis; hemp has been used a long time but see that there are many large corporations in opposition to hemp production

-Pollinator Protection > Focus on native pollinators; the most active group (would like to get summary from this group for the next meeting)

Jolene Hendrix – AAPSE Report

-Members of the board hold positions for 1 year

-Broken up in four regions: western, north central, southern, north eastern (members include SLAs, PSEPs, and industry)

-Committees > Communications Committee (focusing on outreach); New Membership Committee (new member training, onboarding new AAPSO members); Strategic Plan Committee; Issues and Evaluations Committee (responded to EPA's sulfuric fluoride proposed changes, requirements for training and enforcement)

-Journal of Pesticide Safety Education – New study of removal of pesticides from clothing available on the JPSE website

-Professional Development workshops > Work/ Life balance and Designing and Conducting Economic Impact Analysis of PSEPs

-Met with PACT in Denver in 2021 and it was very successful

-Upcoming events: State of Association Meeting (Dec. 9 virtual); Board of Directors Retreat (Jan 2022 Atlanta GA); Annual Meeting is being planned and confident that it will be in person

Linda – CTAG Update

-Doing monthly virtual meetings throughout the year, 2-day meeting in august (discussed collaboration teams, priorities, CTAG groups); Open house to discuss joining CTAG and Collab Groups

-Label mandated training (collaboration team) created a scoping document to develop a white paper; how label mandated training affects SLAs, applicators, and PSEPs; questions covered include who does training, who approves the content; would like to urge EPA to interact with SLAs/ PSEPs before decisions are issued; there are open spots to join label mandated training group; would like to develop directive for EPA about how training is working

-White papers are so positive for new employees or employees looking for direction

Eric Petty – Lab Directors Report

-Good open communication with all the labs > no new issues have arisen

-PFAs – Somethings to consider about outsourcing PFAs testing; it might not be a cost affective investment to have labs do this testing (foreseeing multiple year testing, might be better for EPA to do testing)

-Some issues with supply chain with getting lab materials

-COVID has really affected testing due to availability of employees for testing

-Liza Fleeson Trossbach (VA): Noticing many uses of non-conventional pesticides, especially in mosquito applications; many labs don't do testing for non-conventional products and regulatory still needs to do enforcement, has this been addressed? Eric: It has not come up as a major topic of concern with the lab directors, but there is some work being done to develop methods in labs for non-conventional products

BREAK FOR LUNCH

-technical difficulties-

Chlorine Gas Recap

Pat Jones (NC): 85,000 plants including drinking and wastewater are still using chlorine gas; gas is cheaper than the liquid (not typically used in higher populations, rural areas); slowly moving from gas to liquid

Tim Creger (NE): Nebraska just removed chlorine gas from the revised certification plan, wouldn't be easy to add it back in

State Updates/ Topics of Concern

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Region Updates

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-Bayer Announcement > Creation of the Unmanned Aerial Pesticide Application System Task Force, viewing risk assessment, drift, international discussion, etc.

-Prep came out with a new PREP combo > just announced via email

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Continued Region Updates

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Tim Creger (IN) - There was an ancient provision in FIFRA that allowed EPA authority to pay for recall of national recall items like DDT, and the last ones they did this on were dinoseb and Silvex.

Amy Sullivan (AAPCO): has it been taken out of FIFRA?

Tim Creger (IN): Amy Sullivan and anyone else interested in dusting off some old FIFRA cobwebs, check 7USC 163m, Indemnities for cancellation.

Rose Kachadoorian (OR): Are you talking about PRN 96-8?

Jim Brunette (NC): It was the 1988 Amendments to FIFRA. Until then, EPA was required under FIFRA to accept certain suspended and cancelled pesticides for disposal at government expense. In addition, an indemnification provision required EPA to reimburse holders of such suspended and cancelled pesticides for financial losses suffered, up to the cost of the pesticide. The 1988 amendments eliminated those provisions and authorized EPA to require registrants and distributors to recall suspended and cancelled products. The Agency was authorized to require registrants to give evidence of their financial capacity to carry out such recall....etc.

Dave Scott (IN): It is not an EPA rule, it was a policy that died.

Kelle Davis (WA) - We were getting hits for diuron at cannabis grows. Common denominator was the white paint used in the interior walls. Kilz.

Dave Scott (IN) - Is SLITS still in use?

Rose Kachadoorian (OR): I hope not Dave, SLAs really wanted to have this mechanism. It is still being responded to, just not as readily as in the past. But if it is dead, there should be a discussion. Thank you for bringing this up.

Matthew Bucy (OR): When I have emailed Product Managers questions, they have told me they'd prefer to receive the questions from SLITS.

Amy Sullivan (AAPCO) - If EPA does not respond about an issue the committee will turn the problem in an Issue Paper

ADJOURN

December 7, 2021

PFA's & Pesticides

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Meg Hathaway - Dicamba Registration Decision Discussion

-In October 2020, 3 products were approved by EPA for use on soybeans and cotton, the 2021 growing season was the first time the labels were used and despite the control measures there was still damage reported to EPA

-Dicamba related damage still occurred in 2021 and even in counties with extra endangered species precautions

-EPA had a meeting on Aug. 30, 2021, with reps from WSSA > EPA is finalizing these notes/ comments into a final draft

-Sept. 2, 2021, meeting with AAPCO > all comments have been received but if more comments need to be sent out to EPA they should be received within two business days of today (by 12/9/21)

-Registration review process has started for Dicamba, considers all dicamba products not just those in the 2020 decision

-Dicamba OTT > EPA has not yet made a decision to alter the 2020 decision, would like to evaluate the control measures, EPA is no longer certain if the products can be used near endangered species/ protected habitats, if control measures are determined to be insufficient they might need to be reevaluated and could be challenged in court

-6a2 letters were given to registrants, copies of letters are available on the dicamba docket, EPA is reviewing responses to those letters

-24c policy > reiterate that for the dicamba 24c applications EPA took them seriously, they must meet FIFRA requirements (data, information, analysis), should not result in adverse effects, should consult with EPA about this process

Questions

Amy Sullivan (AAPCO): Is there anything in particular EPA is looking at? Meg: No, EPA sent out the current draft of the summary document

Pat Jones (NC): Our training sessions for 2022 are starting in January/ February 2022, to prepare for the training we need to know if there will be changes to the label, we need to know now so we can prepare resources for growers; Meg: Will take back to the team and the current labels are still the 'law of the land' and should be sufficient for 2022 growing season

Dave Scott (IN): Regarding your comments on ESA considerations, is that an entire county by county evaluation or some other scope? Part of a county? Entire state? Meg: Don't always receive the same data across the board, looking at the locations and evaluating on a county and state level; cross referencing the information with the regulations and still calculating but that is the approach being taken

Brad Beaver (IL): Would like to know as soon as possible about changes to the label and concerned about 24a label, consider how any changes will affect states and the timing for states

Amy Sullivan (AAPCO): Would like to know how the meeting minutes were used from the Sept. meeting; Meg: Once we know something the info is shared in the office, registration will share info and info will go in the 2020 docket; we don't publish everything we have in the docket but are trying to be transparent

Dicamba 2020 docket link: <https://www.regulations.gov/search?filter=EPA-HQ-OPP-2020-0492>

Pat Jones (NC): If state submits a 24c, you talked about needing to show no adverse effect, states in the southeast are put in a hard place because of the cut off dates; growers are

surveyed during the training and information is provided but EPA says it is all 'self-reported data', what are you wanting us to submit? Meg: Might need more time to consider that question, take a look back at the ecological risk assessment that supported the 2020 risk decision, changes that would be related to ecological risk would need to take a look at what the agency looked at in that document ** appendices and body of the doc** if there are areas that are not seeing incidents in the cut of date period please report those they would apply, but if they are outside of the date range they would not

Meg: Thank you all! One clarification I neglected to make while speaking on dicamba: the August 30th meeting I mentioned that was organized by WSSA included discussion of academic and extension weed scientists sharing their experiences and research. It was not an occasion where WSSA was speaking as an organization.

Eric Bohnenblust - 24C Discussion

-Tawanda took another position, looking to back fill that position > in mean time submit 24c/ sect. 18 to the mailbox and cc Eric

-About 3 weeks ago, all acknowledged 24c are in PPLS, mostly new ones on there and their status (hope this will be helpful to SLAs and gen. public)

-Highlight that registrants need to coordinate with SLAs prior to submitting SLNs to EPA

-24c is only for registering additional uses for a pesticide currently, to add restrictions you need to use 24a route

-Letter from AAPCO to EPA was received and EPA will provide a written response; had meeting with the AAPCO board and heard several concerns about policy shift with 24c's

-Potential options include working with the registrant directly to seek restrictions on the federal label, EPA would need to review the revised label to make sure that those standards meet FIFRA

-Data needed for 24c > Have pre-consult meeting if SLA is going to submit a 24c so that guidance can be provided

Questions

Dave Scott (IN): Normally it takes some time to submit a 24c/ sect 18, how will EPA respond in a timely manner? Eric: Non-PRIA amendment (90 days) or PRIA amendment could be used here and time varies

Shannon Whitlock: Timeline for registration can be quite long, sometimes even longer than the expiration dates on SLNs themselves? How to manage?; Eric: If the label expires the registration review, should work with the state

Unknown: Is EPA requesting a 5 year label? Why 5 years?; Eric: 5 years is most comment, but not specifically requesting the 5 year, there are some that are shorter but 5 years is generally the max, case by case

Jim Mossett (TPCC): Is there a mechanism in place to get these notices to the tribes? Eric: Can add tribal reps to the notices; TPCC is going to try to engage more tribes in the pesticide world

Christopher Wade (DE): Should the state always receive "approval" for a 24c. I have submitted SLN's and never heard back from EPA during the review time outlined on the submittal. Eric: considered registered when the state registers the product; if you don't hear from EPA then that means the 24c has gone through and if its after the 90 days then they don't typically send a response letter only a note is added to the file

Raj: Is additional data needed? Certain restrictions might require data and review, but its on a case by case basis, go online and look at the PRIA code R tables

Julie: Registrants are required to notify SLA about the SLN, how does this process work considering registration review? Looking to avoid that states don't know that a SLN label is coming to EPA since it is a state registration; Amy Sullivan: This is a situation between the state and the registrant, registrants need to communicate with the state, SLNs should have a different SLN number; Amy Brown: Any update to the SLN should be coming from the state

Matthew Bucy (OR): We've had SLN labels updated through reg review that don't need a new number. We require the Environmental Hazards on SLN labels. If reg review modifies that, the SLN would be amended, but would be the same SLN number.

Shannon Whitlock: From our recent experience the changes to the SLN labels are minimal, like adding a MOA bar, no significant changes for uses.

Rose Kachadoorian (OR): 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> When can the SLAs expect an official response from EPA regarding this document?; Eric will get back to Rose about this

Unknown: Several states including Montana, have already created documents about how to submit SLNs

Ray McAllister (CropLife America): Over the past year or more, registrant companies have received requests from EPA reviewers to add significant amounts of repetitive language to 24(c) labels, primarily in the context of label mitigations required during registration review. CropLife America is concerned that 24(c) labels should be kept simple; focused on geographically limited, single crop uses; and referencing the corresponding Section 3 labels for statements, instructions, and language details common to other registered uses. Furthermore, state regulators should have the lead in amendments and updates to 24(c) labels. We have understood from EPA managers that such large scale additions of text to 24(c) labels are not in order, and that the mistaken requests to registrants had been corrected. However our members are still seeing some of these requests. We would like to come to a common understanding, involving RD, PRD, and state regulators, regarding the language requirements for 24(c) labels.

BREAK

Chlorpyrifos Discussion (Skipped)

Matt Lloyd - Revised State Certification Plans and EPA Approval Process

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Questions

Pat Jones (NC): Would sale be legal if an applicator buys online or in another state? Does the jurisdictional statement apply? Matt Lloyd: The jurisdictional statement only applies to use not purchase

Clayton Myers - USDA OPMP pesticide programs, policy, work with EPA, other Federal Agencies such as FDA, and States

-Office was set up to facilitate risk assessment and advocacy

-Huge part of job is to connection stakeholders nationally and internationally

-Challenges for the future > growers have continuing needs for a larger toolbox and yield will need to increase, chemical crop protection tools are 20th century technology but they aren't going away, crop protection will still be an important part of agriculture, large amount of public mistrust of agricultural technology (communication is key)

-EPA handles most risk assessment, there are many strengths to this process; our role in this process to provide context and help EPA assess label impacts, practical use of pesticides, worst case scenarios, etc.

-When EPA posts new interim decision, risk assessment etc., this triggers public process including public comment period and consideration, transparency is important

-Use regulations.gov to receive public comments > comments must be actional and substantive

-Providing feedback on many relevant topics like fumigants, herbicides, protectant fungicides, etc.

Amy Cross - National Pesticide Information Center (NPIC) Services and Noteworthy Incident Cases

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Neonicotinoid Treated Seed Issues

Anthony Lamanno (NY): NY regulates treated seeds, R2 noticed that the paper referred to specific concerns but there are not any specific complaints just general concerns

Liza Fleeson Trossbach (VA): R3 doesn't have any specific complaints, would support more clarity and discussion

Tim Drake (SC): No issues with treated seeds in R4

Gretchen Paulch (IA): R7 had an issue in Nebraska; Tim: EPA deems these treated articles; USDA will not enforce language seed tag label, puts all the emphasis on the user

R1: No issues, would support

R6: Haven't had issue in region six, but no problem supporting

Brad Beaver (DE): R5 had several states with legislation proposed regarding disposal, would support moving forward

R10: No issue

-Will become an issue paper

Consideration of Issue Papers

Pat Jones (NC): Have had many discussions about how to move forward with pollinator protection issue paper, have talked about enforcement, talked with video production team used by PSEP about coming to NC and creating a video for the issue

Amy Sullivan (AAPCO): Lunch and learn proposed from EPA about certification, lots of new employees with many questions about