

Report to SFIREG (December 2022): Activities of the Pesticide Operations and Management (POM) Working Committee. Amy Brown, Chair, Florida Department of Agriculture and Consumer Services

Submitted November 30, 2022, by Amy Brown, Chair, POM Working Committee

The POM Working Committee is focused on registration, certification, and enforcement related pesticide issues of national or regional importance.

POM meet on June 29, 2022, to discuss topics from the April 2022 meeting and discuss action items. POM meet on August 8, 2022, to introduce new members and discuss topics for the September 2022 meeting. POM met on November 4, 2022 to discuss assignments from the Fall JWC.

POM welcomed two new members Sarah Caffery (IN), and Morgan Griffith (VT).

The Spring Joint Working Committee (JWC) meeting was held in person September 19-20, 2022, in Providence, Rhode Island. The POM and EQI committees met together and had breakout sessions to discuss issues in detail within each committee. POM Committee members in attendance were Amy Brown, Chair (FL), Jimmy Hughes (DE) (2024), Kristia Thomas (SD) (2024), Sarah Caffery (IN) (2025), and Morgan Griffith (VT) (2025).

Topics Discussed and Presentations at the September JWC Meeting:

Please refer to the meeting materials for papers and presentations from the fall meeting on the AAPCO website <https://aapco.org/2015/07/29/working-committees/> compiled by Amy Sullivan, AAPCO Executive Secretary. An outline of the various topics/presentations covered in the POM and JWC joint sessions are as follows:

POM/EQI Joint Meeting:

- AAPCO President updates (Liza Fleeson Trossbach, VA)
- SFIREG Chair updates (Gary Bahr, WA)
- Office of Pesticide Programs (OPP) Update (Ed Messina, US EPA)
- Office of Enforcement and Compliance Assistance (OECA) Update (Kelly Engle, US EPA)

- **Presentation on AAPCO/SFIREG/JWC** (Amy Sullivan, AAPCO-SFIREG Executive Secretary)
 - Amy Sullivan presented a presentation and gave an overview on the history of AAPCO/SFIREG/JWC and their roles and responsibilities

POM Session included:

- **AAPCO 24c guidance revisions** (Amy Brown, FL, and POM committee members)
 - Discussion of revisions needed and next steps
 - Committee reviewed the draft from 2019 and identified the following revisions
 - 24(c) - additional restrictions; page 7
 - Page 21; registration review process elements
 - Reference to EPA's 24(c) page instead of copying and pasting
 - Sarah Caffery and Morgan Griffith volunteered to work on the revisions
- **Paraquat FAQs revisions** (Amy Brown, FL, and POM committee members)
 - Discussion of revisions needed and next steps

- Oregon provided an additional question and an answer EPA provided – do we need to add this to the document – Yes
 - Jimmy Hughes and Kristia Thomas volunteered to update the document
- **Additional Discussion**
 - Device Topic
 - Sarah Caffery volunteered to gather bullet points about issues they are seeing in Indiana
 - Emily Ryan, EPA will ask about the device paper response from EPA

POM/EQI Joint Meeting:

- **Endangered Species Act (ESA): A closer look at the efforts of EPA and partners to improve the FIFRA/ESA Process** (Hotze Wijnja, MA, Amy Brown, FL, and Brian Anderson, Associate Director, EPA Environmental Fate and Effects Division (EFED), the Services, USDA)
 - Brian Anderson presented a presentation on strategies and actions to improve the ESA-FIFRA work which included pilot projects implementation and progress
 - The goal is to meet ESA obligations and all FIFRA actions that invoke ESA
 - Priorities include any chemical that have litigation actions and new active ingredients
 - Timelines for EPA and the Services for Biological Evaluation (BE)/Biological opinion (BiOp) are 18 months to implementation
 - New Active Ingredient Policy
 - Federal Mitigation Pilot
 - Collaboration between EPA, the Services and USDA
 - Identify mitigation to reduce/minimize the effects of pesticides on listed species
 - Vulnerable Species Pilot
 - Identify specific species that are vulnerable to pesticide exposure
 - Identify subset of listed species
 - Currently drafting mitigations for pilot species
 - Will conduct public outreach – target stakeholder groups during public comment process
 - Registration review activities and ESA
 - Early ESA pilot chemicals in ESA workplan
 - Proposing mitigation
 - Methomyl: revised PID fall 2022
 - Carbaryl: PID fall 2022
 - Rodenticides: PID fall 2022
 - Neonicotinoids: revised PID Spring 2023
 - **National Marine Fisheries Service Perspective was provided by Ryan DeWitt**
 - Provides ESA Section 7 Pesticide Consultations
 - Each Federal agency shall insure that any action authorized, funded, or carried out by such agency is not likely to jeopardize ESA species or result in destruction or adverse modification of designated critical habitat
 - Definitions

- Jeopardy – to reduce appreciably the likelihood of both survival and recovery
 - Adverse Modification – appreciably diminishes the value of critical habitat
- The Action in pesticide consultations-Actions with pesticide labels includes:
 - Labels as written/approved
 - Degradates and metabolites
 - Formulations, including other ingredients within
 - Adjuvants
 - Tank mixtures
- ESA Coordination:
 - Includes the Applicant (Technical Registrants)
 - NMFS - salt water/salmon (approx 100 of the species) - aquatic/watersheds- confined to aquatic environment/shorelines
 - FWS - wildlife & freshwater species (the rest)
 - Other stakeholders
- ESA Process:
 - EPA Biological Evaluation (BE) - individual-level determination
 - NMFS or FWS takes EPA BE --> to population-level determination
- Biological Opinion (BiOp)
 - Status of the species - abundance/distribution
 - + environmental baseline - where - past impacts to habitat
 - + effects of the action - specific impact of pesticides is assessed (Species and space have different baselines/sub populations)
 - + cumulative effects - impacts of known future events
 - = overall jeopardy conclusion
- BiOp Conclusion- is the Action likely to Jeopardize the species?
- NMFS Mitigation
 - Focuses on areas where needed most
 - Provides a variety of options
- How can you provide input? Public comment periods on the EPA's Draft BE and on the NMFS Draft BiOp
 - Also can comment directly to the NMFS contacts (see presentation for contacts)
- **U.S. Fish and Wildlife Service Perspective was provided by Nancy Golden**
 - ~1660 plants and animals listed as threatened or endangered under the ESA
 - FWS is responsible for terrestrial and freshwater species
 - Refined Species Ranges – developed and shared for each species
 - Results in better conservation for species
 - Refined species maps available to the public at <https://ecos.fws.gov/ecp/>
 - Conservation measures = Mitigation
 - Can occur at any stage of consultation:

- EPA BE
 - FWS BiOp
 - The earlier in the process- the more efficient
- Mitigation hierarchy
 - Avoidance
 - Minimization
 - Compensatory mitigation
 - Offsets - unavoidable impacts
 - Have not explored this yet with pesticide labels.
- General Conservation Measures
 - Appear on all product labels
- General Information needed
 - Where are pesticides used
 - How pesticides are used in the field
 - Best Management practices
 - Current mitigation or conservation measures
 - Other suggestions
- Looking Forward
 - EPA mitigation pilots
 - Early coordination with federal partners, applicants (registrants) and other stakeholders
 - Expand stakeholder input
 - Streamline consultations and provide meaningful conservation to species
- **USDA Perspective was provided by Elyssa Arnold**
 - USDA Office of Pest Management Policy (OPMP)
 - <https://www.usda.gov/oce/pest/about>
 - Role in ESA FIFRA Consultations
 - Provides the grower perspective including how pesticides are typically used and the implications of proposed mitigations
 - Provides data on typical usage and can also conduct pesticide use surveys
 - Agricultural Resource Management Survey
 - Conservation Effects Assessment Program
 - Goals:
 - Participate as a member of the FIFRA-ESA Interagency Working Group
 - Engage in mitigation discussions with EPA and the Services
 - Ensure processes that require public notice and comment are followed
 - Communicate with stakeholders on ESA processes and outcomes
 - Challenges
 - Litigation concerns
 - Right balance between broadly applicable measures and targeted mitigation

- Right balance between flexibility and easy-to-follow labels
 - Picklist is a challenge
 - How is this enforceable
 - Does it apply to me?
 - What does the application require/what's the soil type?
 - How to record for compliance?
 - Coordination with applicators and SLAs responsible for the enforcement
 - Find efficiencies in a traditionally lengthy process
 - Moving forward – mitigation
 - Ensure Grower perspective is heard
 - Federal Early Mitigation Pilot
 - They will bring in grower and other stakeholder perspectives on proposed mitigation
 - Stakeholder outreach expected winter 2022
 - Feedback on Picklist
 - How is it working and how can it be improved?
- **Implementation of ESA and/or FIFRA mitigation measures on Labels (Hotze Wijnja, MA, Amy Brown, FL, Dave Scott, IN, Liza Fleeson Trossbach, VA and EPA, Ashlea R. Frank, Compliance Services International (CSI))**
 - Ashlea R. Frank, CSI gave a presentation titled “What do actions taken today tell us about labels of tomorrow” with the purpose was to help us understand more about label implementation needs due to ESA changes, be aware of what may be coming, and ways to disseminate information to applicators.
 - Presented what CSI does and that they have been involved in CSI has been involved in the intersection of FIFRA and ESA for many years
 - They also manage the FIFRA Endangered Species Task Force (FESTF) which is comprised of 17 pesticide registrant companies, has been addressing endangered species and pesticide data requirements for over 20 years. She gave an overview of the Task Force and their efforts
 - EPA’s new policy was discussed and how it operates on the theme of “quicker” data review
 - Due to ESA, registrants are making label decisions that try and balance product availability and usability with grower needs
 - Availability is the quality of being able to be used or obtained
 - Usability is the quality or state of being usable; ease of use
 - EPA only recognizes “Do Not” statements
 - Presented examples of ESA decisions (Malathion and Enlist) – What do they tell us about future labels?
 - Expect delays in registrations
 - Expect changes to the availability and usability of existing products as they go through Registration Review
 - “Pick-lists” such as what was used in Enlist and the NMFS final BiOp for malathion are likely to become more common
 - A model for ESA pesticide applicator training would help to assemble or identify consistent messages about ESA listed resources

- They welcome engagement with SFIREG in efforts to ensure usability and availability of pesticides through the implementation of informed and reasonable mitigation strategies
 - Asked if SFIREG could appoint a lead person to stay in contact with FESTF in a collaborative process on some of FESTF's activities?
 - Answer -APPCO/SFIREG/JWC would discuss and would like to have a liaison to work with the Task force
- **Dicamba** (Hotze Wijnja, MA, Amy Brown, FL, Committee Members and Lindsey Roe, EPA Registration Division (RD))
 - Lindsey Roe shared an update from the EPA and answered questions.
 - Thanked AAPCO for the two surveys they did (SLAs and Weed Scientists) and the national calls. Additionally, the minutes from the national calls will be posted in the docket
 - On September 13th they sent a 6a2 reminder letter to registrants reminding them to send EPA information on any incidents – this is available in the docket
 - To view the documents go to the docket EPA-HQ-OPP-2020-0492 at [Regulations.gov](https://www.regulations.gov)
 - Registration Review Process
 - Revised human health and draft ecological risk assessments were posted for public comment on August 8 and comments are due on October 17, 2022
 - Comments available on registration.gov <https://www.regulations.gov/docket/EPA-HQ-OPP-2016-0223>
 - This is for non-Over the top and OTT
 - PID is scheduled for 2023, this will be an opportunity to comment on proposed mitigation
 - EPA is continuing the review of OTT to see if it can be used without incident – reaching out to stakeholders/registrants
 - Response to next season, seed buying needs, etc. -EPA is trying for early fall to make a decision for next growing season, this date is unpredictable, and they are unsure if anything will change
 - EPA is still accepting state specific requests, as they did for Minnesota and Iowa
 - The AAPCO surveys are located on the AAPCO website at [Surveys: 1998 to Present – Association of American Pesticide Control Officials \(aapco.org\)](https://www.aapco.org)
- **PFAS** (Hotze Wijnja, MA, Amy Brown, FL, Committee Members and EPA)
 - Updates were provided from EPA
 - PFAS Leaching Study-Anne Overstreet, Acting Director, Biological and Economic Analysis Division (BEAD)
 - Results can be found at [Per- and Polyfluoroalkyl Substances \(PFAS\) in Pesticide and Other Packaging | US EPA](https://www.epa.gov/per-and-polyfluoroalkyl-substances)
 - PFAS Inerts-Kerry Leifer (RD)
 - Proposal to remove 12 inert ingredients
 - Ingredients are not in any known pesticide products; removing will ensure that they are no longer available; there was no tolerance established

- Once removed, if a registrant wanted to use them, they would have to file a petition with EPA
 - There are still approximately 3 ingredients that are not being removed at this time, due to them having tolerance exemptions, this would have to go through the rule making process to have their tolerances revoked
 - PFAS Council-Jeff Dawson, OCSP Immediate Office (IO)
 - National Environmental Justice Advisory Council (NEJAC)
 - NEJAC is having a public meeting next week to talk about public issues
 - https://usepa.zoomgov.com/webinar/register/WN_kB_BJikKSQyvo8lxRyYnNg
 - Some ingredients may be identified as hazardous substances
 - What definition is being used?
 - OPPT working definition - [Per- and Polyfluoroalkyl Substances \(PFAS\) in Pesticide and Other Packaging | US EPA](#)
 - EPA/Industry collaboration on containers?
 - Some research from industry was provided
 - TASC letter on containers/fluorination
 - https://www.epa.gov/system/files/documents/2022-03/letter-to-fluorinated-hdpe-industry_03-16-22_signed.pdf
- **Chlorpyrifos and other OPs with possible tolerance revocations** (Hotze Wijnja, MA, Amy Brown, FL and Kelly Sherman, Branch Chief, OPP- Pesticide Re-evaluation Division (PRD)-RMIB3)
 - Dana Friedman, EPA provided an update on the issues
 - Organophosphates with possible tolerance revocation
 - The Petition requested that EPA revoke all tolerances and cancel all associated registrations for food uses for 15 OPs.
 - Docket EPA-HQ-OPP-2022-0490 – comment period will end September 25th
 - EPA will consider all comments and cannot speak to their actions right now
 - Chlorpyrifos
 - Return programs
 - EPA working with registrants; not authorized yet
 - Parameters/agreements are continuously being revised
 - Updates will be provided to SLAs and the FAQ [Chlorpyrifos | US EPA](#)
 - ESA
 - Mitigation from BiOp required amended labels to be submitted to EPA by Oct 29th
 - Status of Cancellation Orders
 - 16 products were voluntary canceled
 - Notice of Intent to Cancel (NOIC) – once issued, it will be published in the Federal Register – becomes final within 30 days of the FRN
 - Registration Review

- May need to amend PID
 - USDA reviewing comments
 - Non-Food Uses may have more mitigations
 - ID will not be issued Oct 2022 as planned
- **Registration Review schedule** (Gary Bahr, WA, SFIREG Chair, Hotze Wijnja, MA, Amy Brown, FL, Sarah Cafferty, IN and Mary Tomlinson, ME)
 - SFIREG-JWC organizing reviews among committee members update
 - Improved communication with SFIREG/JWC would allow organizing reviews among committee members
 - Gary presented the benefits of organizing our reviews and how WA organizes their reviews
 - We would need to provide structure; outline; template; help facilitate commenting
 - POM/EQI will follow-up with a separate meeting with their committees to discuss a process for tackling this issue and if it would be of benefit
 - Crop Life America (CLA) workgroup update
 - Sarah Cafferty and Mary Tomlinson will represent AAPCO on the workgroup
 - Consists of CLA, EPA and state representatives
 - Workgroup is still being formed – no update at this time.
- **Technology Workgroup – Update** (Dwight Seal, NC, Committee Chair)
 - Dwight Seal, NC presented on the AAPCO Technology Workgroup
 - See presentation at <https://aapco.org/2015/07/29/working-committees/>
- **Label Improvement Project – Update** (Liza Fleeson Trossbach, VA, AAPCO President)
 - Liza Fleeson Trossbach, VA, presented on the Label Improvement project
- **Other Emerging Topics** (Hotze Wijnja, MA, Amy Brown, FL, Dave Scott, IN, Sarah Cafferty, IN and Committee Members)
 - Communicating with EPA’s Project Managers regarding product registration questions
 - Discussed interactions with PMs and SLITs
 - Emily Ryan, EPA will follow up regarding SLITs and who is the contact
 - Due to turnover a SLITs training may be needed

POM tasks accomplished since the SFIREG June 2022 Meeting:

- POM completed the Multiple Products Packaged Together Registration Review Guidance and it is now posted on the AAPCO website at <https://aapco.org/wp-content/uploads/2022/10/Oct-MPPT-Guidance-Document-POM-revisions-08-08-22-2.pdf>
- POM and EQI worked with CLA regarding the registration review work group they are forming to address EPA’s Registration Review process/approval of state labels and recommended Sarah Cafferty (IN, POM) and Mary Tomlinson (ME, EQI) to represent AAPCO. The work group has met one time and also includes representatives from EPA and industry.
- POM continues to follow the Dicamba, Pet Products, PFAS, Chlorpyrifos, Endangered Species Act, Registration Review, Seed treatment, Chlorine Gas, and Rodenticides issues raised in the Joint Sessions.