

Region 10 Pre-SFIREG Meeting Report

Prepared by: Bob Blankenburg, P.E., Alaska, Region 10 SFIREG Representative

Pre-SFIREG Meeting Date: November 29 - 30, 2022

Attendees:

Alaska: Bob Blankenburg

Idaho: Ryan Ward, Sherm Takatori, Brian Slabaugh, Brandon Smith

Oregon: Gilbert Uribe, Rose Kachadoorian, Isaak Stapleton, Toby Primbs, Grant Jackson, Andrea Sonnen, and Kathryn Rifenburg from the Oregon Department of Agriculture (ODA). Penny Wolf-McCormack from Oregon OSHA.

Washington: Robin Schoen-Nessa, Gary Bahr, Brent Perry, Kelle Davis, Scott Nielsen, Gary Buckner, Tina Zimmerman, Ofelio Borges, Perry Beale, Abigail Nickelson

EPA Region 10: Stacy Murphy, Bethany Plewe, Dirk Helder, Marie Hallinen, Linda Liu, Chad Schulze, Derrick Terada, and Martin Lovato

EPA Headquarters: Yvette Hopkins

Coeur d'Alene Tribe – Eric Gjevre

Yakama Nation – Joe Herrera

Oregon State University – Kaci Buhl

University of Idaho – Rhonda Hirnyck, Kimberly Tate

Overview: The Region 10 Pre-SFIREG meeting was held in conjunction with the Region 10 Pesticide Director's Meeting. The meeting was held in person at the Region 10 Office in Seattle, Washington, with some attendees participating through virtual attendance.

Discussions included the following questions, with state responses as appropriate:

- **New Issues**

IDA

As part of the proposed legislative rule, Idaho is presenting a requirement for applicators and dealers to prepare a spill response plan and have a spill kit available appropriate to mitigate any pesticides spilled during their use, storage, or transport. This is an overlooked aspect of the pesticide application / distribution process, is there any interest on the national level to create a similar requirement?

- **Pre-SFIREG Questions:**

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

WSDA

- Washington is still waiting for approval of state plan.
- Final, final version was submitted on 9/28/2022 and we were given a general timeline of two months for EPA HQ to give final approval. Therefore, we expect approval in November 2022
- However, if approval is not received before the WA 2023 Legislative Session begins (Jan. 9, 2023) WSDA will pull submitted legislation and re-submit in 2024, and then move to rulemaking the year after... So, if EPA delays our approval, that delay will result in at least a year's delay in WA moving forward with implementing the 2017 C&T Rule changes.
- Legislative Decision Package submitted for 2023 added and updated definitions, changed the minimum age for private applicators to 18, and added authority to establish standards for direct supervision of noncertified applicators.

ADEC

- EPA issued final approval of Alaska's certification plan on June 30, 2022.
- Alaska is currently in the process of regulations revisions to reflect the new requirements. We anticipate public notice in December 2022 or January 2023.

ODA

- The EPA approved Oregon's pesticide applicator certification plan on October 6, 2022.
- EPA Region 10 staff, esp. Bethany Plewe, have been excellent to work with over the years. We appreciate having such a good working relationship with Region 10.

ISDA

- The C&T plan process in Idaho is slow and tedious as our certification standards reside in our state rule. For state rule to be amended it must go through a negotiated rule process with industry, and other concerned parties, and then go before the House and Senate Ag committees for a vote before going before the full House and Senate for a final vote. This process often takes years to complete, and the final product may not be what was approved by the EPA.
- Ways that SFIREG and AAPCO may assist
 - Please communicate that because of the parameters placed upon us timelines and final outcomes will require flexibility from the EPA.

- Clear communication of any potential changes from the EPA on (Ex. emerging RUPs) to allow Idaho to incorporate these items into the proposed legislative rule.
 - Idaho is close to an approved plan. We are in our third submission and hope that any edits at this point are minor. Once the “strawman” version of the administrative rule is approved by the EPA, the legislative process will begin, and we intend to present the updated legislative rule during the 2024 session.
- **OP cancellation petition to EPA:**

WSDA

- Most of these OP’s have multiple important crop uses currently in WA.
- With the removal of Chlorpyrifos, Diazinon has now become a primary tool (insecticide) used to control wooly aphids in tree fruit.
- Dimethoate still a commonly used product for aphid control in small grains and Lygus bugs in lentils.
- Malathion for controlling mosquitos as an important adulticide, Malathion still commonly used for pest control in cherries. Malathion still a viable control option for homeowners in garden & landscape settings.
- WSDA’s Natural Resource Assessment Section has pesticide usage data on several of the OP’s, however the needs of these OP’s need to be assessed by WSU or other researchers if there are effective alternatives available.

Active Ingredient	Current Uses 2012 - Present
Acephate	Alfalfa Seed, Cranberry
Chlorethoxyfos	No Data
Chlorpyrifos-methyl	No Data
Bensulide	No Data
Diazinon	Cabbage Seed, Brussels Sprouts Seed, Cherry, Cranberry, Apple, tree fruit
Dichlorvos	No Data
Dicrotophos	No Data
Dimethoate	Alfalfa Hay, Alfalfa Seed, E WA Potato, lentils, small grains
Ethoprop	E & WWA Potato
Malathion	Pear, blueberries
Naled	Alfalfa Seed
Phorate	No Data
Phosmet	Apple, E WA Potato
Terbufos	Field Corn
Tribufos	No Data

ADEC

- We have not submitted comments, nor do we have concerns about impacts of cancellation for any of these products due to low use/not registered in Alaska.

ODA

- There are concerns that alternatives to chlorpyrifos, such as acephate, will no longer be available, and there will be an over reliance on synthetic pyrethroids, which will lead to resistance management issues. In addition, malathion has been an important insecticide for control of spotted wing drosophila, eliminating this option in a rotation may result in crop damage, and pesticide resistance issues.

ISDA

- While most of these AI's have limited uses because of the priority to lower or eliminate use of broad-based OP's, there are still valid reasons for retaining some of the AI's for specific industry uses and to retain potential use of effective products. EPA needs to evaluate the uses of some of these AI's that still have value in certain situations. Most notably would be in the uses for non-feed/food uses for significant pests and as an option for effective resistance management. There are certain pest control situations that will benefit from the judicious use of some of these AI's that will limit exposure or environmental harm. In addition, EPA should factor the availability or replacement products that will replace the existing uses of the OP class of pesticides for adequate options for pest control. The general comment the ISDA has received is, "What's out there that will replace these products when they're gone?"

- **Chlorpyrifos:**

WSDA

- Issues with revoking tolerances:
 - It would have been extremely helpful to have a final spring season of use phase-out to remove inventories, versus the food/feed tolerance cancellations first and then the cancellation of labels after the fact.
- Food and non-food labels and uses
 - Corteva cancelled all WA state SLN's for Lorsban
 - Have not seen any cancelations for any Section 3 products yet, but will likely see them during our upcoming renewal period.
 - Have not seen any revised labels (labels that once had both food and non-food uses, being revised to contain only non-food uses.) Might be due to current slow EPA turnaround times registrants have been reporting for other label amendments.
- Waste Pesticide Disposal topics

- The list below includes the total weight of Chlorpyrifos disposed by year for the past six years.
 - 2022 – 725 pounds, 4.2% of total weight of all pesticides disposed
 - 2021 – 4,333 pounds, 2.4% of total weight disposed
 - 2020 – 721 pounds, 2.4% of total weight disposed
 - 2019 – 6,433 pounds, 6.3% of total weight disposed
 - 2018 – 567 pounds, 1.4% of total weight disposed
 - 2017 – 523 pounds, 1.6% of total weight disposed

ADEC

- We do not have any concerns with the cancelled uses/tolerance due to limited use in Alaska.

ODA

- Continue working on messaging to users and dealers regarding the cancelations and the applicability of existing stock provisions. Oregon has offered additional waste collection events in 2022 in response to the chlorpyrifos tolerance revocations.
- There is still some confusion among local pesticide dealers on the legality of selling chlorpyrifos containing products which provide directions for use on food and nonfood crops. A clearer and more direct statement from EPA would be beneficial.

ISDA

- See ISDA comments concerning OP cancellation petition to EPA above, as they are applicable to this issue. Many of the decisions concerning the use of broad spectrum OP's are based upon theoretical data on potential risks that defaulted to maximum use rates for the registered uses and are unrealistic given the need for resistance management and IPM based pest control programs. While the uses for food/feed/fiber should be closely scrutinized, there should be more consideration for a realistic assessment of use for these products in all situations whether they are directly relatable to human risk or environmental concern.

- **Atrazine Interim Registration Decision:**

WSDA

- Adding additional mitigation requirements to the label, that an applicator will need to record on his application record, is a relatively new twist to EPA requirements.
- As we understand, once an applicator has selected his 2 or 3 mitigation methods that he/she will implement to reduce surface runoff, those mitigation methods chosen must be recorded on the application record. This is a label requirement that now goes well beyond our state record keeping requirements. This could create some confusion. (Although it is not too

much different than FMP's & PAS's required for soil fumigation applications since 2012).

- Most of the mitigation requirement options are not very feasible in our overhead irrigated circles in the Columbia Basin, that rotate to crops that do not require an Atrazine application (permanent grass buffer strips etc.) but a couple might--such as irrigation timing/amount management, soil incorporation etc.

ADEC

- We have not submitted comments, nor do we have concerns about impacts of cancellation due to low use in Alaska.

ODA

- No comment

ISDA

- As atrazine and metabolites are common detections in GW nationwide, restrictions on continued use of this AI are inevitable. The primary concern ISDA has would be the existing product privately stored or in the lines of commerce that need to fall under any restrictions, and how that will be addressed.

- **Dicamba:**

WSDA

- WA does not have any of the OTT Dicamba products registered in our state.
No issues

ADEC

- No issues

ODA

- No issues

ISDA

- Dicamba is not a major issue in Idaho. Idaho does not grow the dicamba ready crops that are seen in the Midwest and Southern US states, and therefore has not had the issues with off target volatilization and drift.

- **Diuron:**

WSDA

- Diuron is still used occasionally in small grains as a tank mix tool against SU resistance, still sometimes used in perennial grass (Kentucky Blue) production. Grass seed screenings sometimes used later as cattle feed source.

ADEC

- We do not have concerns about impacts of cancellation due to low use in Alaska.

ODA

- No comment

ISDA

- No comment

- **Methomyl Fly Bait:**

WSDA

- No comments received

ADEC

- We do not have concerns about impacts from this product due to low use in Alaska. We have not had any reports of misuse. However, we have designated the fly bait product a state RUP since 2013 Alaska due to concerns of widespread misuse elsewhere.

ODA

- No comment

ISDA

- The use of baits for nuisance insect control has always been controversial as these products very easily lend themselves to secondary poisoning situations. Moving the designation of the products to RUP status will have the same effect as some of the restrictions on rodenticides and their use by unlicensed individuals. Idaho has adequate categories for use by licensed applicators, so this should not be an issue

- **ESA and Pesticide evaluations, Labels, and Bulletins Live2:**

WSDA

- WSDA continues to watch for updates related to listed species in WA and are commenting on BIOPs utilizing our ESA funding from EPA.
- Concerns about Nontarget Species Mitigation for Registration Review and impact to users/growers, specialty crops, pesticide compliance enforcement, etc.

ADEC

- ESA and Bulletins continue to be a non-issue in Alaska due to zero bulletins issued here.

ODA

- No comment

ISDA

- More effort needs to be placed upon online information for ES restrictions as a supplement for the labels. This will greatly help state regulators and applicators by providing a means to lookup the most recent and available information/restrictions for the use of any product. This is especially important for regionally specific ES restrictions. The use of QR for ease of retrieving information specific to each state's approved pesticide label would be a great improvement.

- **Other Items Raised:**

Oregon Department of Agriculture sent concerns on two additional topics, as follows

- **Pesticide-Treated Seeds**

ODA appreciates that EPA intends to issue an advanced notice of proposed rulemaking (ANPRM) to explore the option of a FIFRA section 3(a) rule to allow for enforcement of the misuse of pesticide-treated seeds.

ODA encourages a thoughtful process when establishing measures regarding the burying of pesticide-treated seed, and to clearly address the possible burial of very large quantities of pesticide-treated seed, and seed treatment waste by commercial entities, including seed treatment facilities. EPA is encouraged to also address the disposal of rinsate which may be generated by commercial seed treatment facilities. These issues should be resolved on the national level, not on a state by state.

The following is stated in the section regarding “Disposing of excess seed after planting”, “Such measures could include labeling instructions for the grower to contact the registrant for information on appropriate disposal and amended registration terms and conditions to require registrants to create disposal plans and educational materials for growers. A registrant disposal plan could include disposal options and bar or condition certain methods of disposal such as combustion or composting.”

Question from ODA: Will EPA be reviewing and approving the disposal plans and educational materials. Will the SLAs be expected to enforce the plans?

- **Promoting Pollinator Stewardship**

Currently statements in the Environmental Hazards section of the pesticide label are often a blend of advisory statements and also enforceable statements. An example of an enforceable statement is, “Do not apply this product or allow it to drift to blooming crops or weeds while bees are actively visiting the treatment area.” Is EPA intending on removing the “Do not” statements, and replacing them with advisory only statements such as, ““This product is [highly/moderately] toxic to bees and other pollinating insects exposed to direct treatment or to residues in/on blooming crops or weeds.”

Washington State Department of Agriculture sent concerns on the following topics:

- **Continuing Issues with Section 24(c) Special Local Need Registrations**

- EPA cancels SLN without notifying the SLA

- Registrant doesn't pay EPA annual "maintenance fee"
 - Registrant submits a request for cancellation directly to EPA.
- EPA contacting registrants directly to make revisions to SLN label, leaving the SLA out of the loop and with an incorrect approved SLN label.
 - EPA revisions should go through SLA first
 - Revisions EPA asked registrant to make were not applicable (WA has statement to refer to Section 3 label for WPS, resistance info, etc.)
- **Contaminants in pesticide formulations and difficulty with residue sample "noise" in our cases.**

WSDA 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?