



December 5-6, 2022

Region 5 Pre-SFIREG Fall Meeting Report



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Minnesota Department of Agriculture

EPA Region 5 Pre-SFIREG Fall 2022 Meeting Report

Meeting Dates: November 2nd and 3rd, 2022

Meeting Location: Microsoft Teams Meeting teleconference

Report Prepared By: Roger Mackedanz (MN)– Region 5 SFIREG Representative

In Attendance: Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin, White Earth, and EPA Region 5

Full SFIREG Topics

1. State Updates:

- Common themes among states
 - programs returning to a more “normal” regulatory process.
 - hiring is a large part of the workload.
 - Large number of very broad data requests
 - C&T plans moving forward, large amount of work
 - Dicamba misuse investigations still taking a large amount of time

- Wisconsin – Several vacancies, hiring has been a priority. Pesticide Program Units- staff are young by experience, intense training programs are needed to get staff up to speed. Significant amount of time on comments from EPA Region 5 on their C&T plan. This has been a time intensive project. Good Success with online testing program, 12% exception rate for the first year. Cost associated with testing that was unexpected. In person testing still seems to be the route that people choose. Have received several very large data requests. Wisconsin law is very open and unrestrictive, very few things that are protected in data requests. RUPs and Paraquat have been highly requested. Investigation and Compliance Section - misuse investigations 110-120 cases, 5 dicamba investigations. Golden Malrin (methomyl)- decrease in these complaints. Mosquito Control- uncertified/unlicensed applicators, fine mist applications-staying on target is going to be a problem, thinking of doing their own set of I&E. Hardwash- cleaning shingled roofs, pool cleaning products were being used to hose and kill off the algae. No complaints this year. Pool products were not labeled for roofs.

- Ohio – Retirements are something that they are facing, open inspector position required 3 job offers to fill the position. Licensing program- normally have 5 people down to 2. Structural Investigation- using ZP tracking powder along baseboards, contract pellets on the other side of the bait stations. Revoke his business license and applicator license and fined him \$5,000. 658 field notices of warnings. 192 complaints, 19 dicamba related, 3 bee kills, 60-70% ag related drift issues. 40-45 cases to wrap up still. Two methomyl cases this year, both came through DNR. 1 case file they were able to find the bait station. Meeting with their DNR to talk through this issue. Disposal capacity- no issues or increase in cost. Pretty steady 50-80,000 range with only 3 events a year. Legislation that passed- in order to pass a new rule, you must remove two rules, they can be any rule. 10% reduction in restrictive rule language over the next 3 yrs. This may cause difficulty with C&T changes if needed. Dozen of paraquat and glyphosate data requests.

PSEP- Seen some turnover, are now fully staffed. Commercial licensing- in person programs 1350, online programs 2500

- Minnesota – Hiring and retiring- inspection staff a lot that were hired in the mid-90s, succession planning with hiring people before they leave, aren't keeping up. We have had to repost positions several times, state benefits are not that great, and salaries are not keeping up with industry. Still doing a lot of teleworking-very few come into the central office, everyone can, but most do not. C&T-really concerned about the validation of who is taking the course. Folks trying to move to study at your own pace training. Folks that are supposed to be watching the course are not the required licensed applicator. Will be putting out an RFP to out-source testing. Some vendors getting push back on offering it ourselves. They don't want to offer them if we are still going to have them from free. Dicamba complaints dropped from 300 to 33, 14 complaints in '22 were after the cut-off date. June 12th would have saved us from about 75% of the complaints if we had a similar spring as '21. Found cases where the cancelled dicamba product being used- coming from other states within the Region and outside of our Region. Complaints- seeing a huge influx of feed and food safety- vegetable specialty crops, farmers market. Registration- no plans to change the cut-off date for dicamba. Submitted comments on the atrazine proposed label changes to EPA. The modeling data was not lining up with our actual monitoring data and there are several areas where the proposed label language would be unenforceable. Neonic BMPs will be released soon, Pollinator BMPs are not seeing many changes.

PSEP-Fully staffed currently with 6 staff members, do have a retirement coming in January. Would like to bring on a brand-new staff person that would oversee homeowners, structural, and vertebrate pest, focusing on tribes and communities of color. In-person only workshops, no self-pace course. 3000 attendees for commercial, private applicator-5700.

- Michigan – Hiring- same issues as other states, going to get worse with internal promotions and creates a domino effect. Paraquat- not aware of any data requests but seems to recall something coming through. There is a fee involved if it is an extensive request. Computer base exams- Metro institute using them for 6 years, they were competing as they offered the exams for free. Have had some complaints about only having one vendor offer the services. Have made methomyl an RUP, the person who poisoned neighbors' dog had a few days of jail time and is now on probation. Used this case file as the stepping-stone to making it a RUP. FY23- last year requested additional funding for environmental justice work, underserved communities-beef up the WPS program, IMP in Schools and in general. They now have over a 1 million in general funds every year, came with 6 FTEs. Filling positions that they use to have, IMP public health specialist, certification specialist. Use investigations are around 180, misuse dropped to 160 and about 18 for cause investigations. 90% of exams are given by Metro and taken at brick-and-mortar buildings. Do offer the remotely proctored, just not many taking advantage. Minimal paper exams given. Have seen an increase in the number of those that pass the exam. Couple of instances of cheating, the system worked perfectly. Metro immediately stopped the exam and informed them. Drones-becoming very popular. 5 commercial and 1 private applicator. Ag, Aquatic, Forestry, Mosquito. The smaller drones are not what they use any longer, more are using the bigger ones that can cover more area in an application. Listing applicators under the FAA license. A school in Michigan, took their 6th grades and applied pesticides to invasive species. Tricopyr was used in droppers. Chlorpyrifos- after cancellation a cabbage grower applied it to his crop, he knowingly did it. In the end the plants were very small and by the time that they were ready to harvest they tested clean.

PSEP-New Coordinator- John is planning on retiring at the end of the year. Giving the core reviews around the state.

- Indiana – Drones- both CropLife and EPA are supportive of this technology. Would have benefits regarding environmental loading and the actual site of application safety. PE-Animal feed medicated vs. EPA (pesticide). Paraquat- dozens and dozens of requests over a few years. C&T revised version was sent in today. Dave working on a rule package, been working on for 18-24 months. This is going to create numerous changes to a variety of things, test, training materials. In 2023 they will not be offering paper exams. Rule writing-formally since February of this year, regulatory moratorium-no new rules. Need permission to even start writing the rules- fiscal implications is the worst part of the process. Public hearing is Nov. 9th and hope to have it finalized by either December or January. In-person and online training offered. They also use Metro for applicator testing, 90% are brick and mortar, around 10% are online. They have hard and fast rules with very few exceptions. 2-3 cheating instances, everything is monitored by video. Want to do more water analysis- need to hire more lab analyst. Running into the same issues with employers doing anything they can to retain their employees. 310 total alleged misuse complaints, 226 drift complaints, 82 related to dicamba and then the next highest was 2,4-D with 23. June 20th cut-off date for dicamba.

PSEP- still actively publishing publications. Buying bootleg products- publication on how do you know if you have a bad product. Poor disposal practices, what to do with their rinsate. Mosquitos, nozzles, tornados (what should they have done, what can you do), Pulling down wires and getting electrocuted. 200 farm programs, but 500 individuals. Drones- most labels have a certain amount of water that is required per acre, drones don't meet that requirement which would be that they are off label.

- IL – Staffing- turnover phase- a lot of retirements. In the process of rebuilding their lab, struggling to get candidates with experience. Field staff, have quite a few that will be retiring. Licensing Program- short term staff and a retiring manager. Ground water well monitoring assessment- want to reevaluate, looking at taking wells out of the system. Pesticide Misuse 384 cases, dicamba is down to 119, would love to say that it is steadily declining due to the 85 degree restriction and June 20th cut-off date, more likely due to dicamba fatigue and people moving to Enlist. Methomyl- do not really have the complaints coming in. Clean Sweep- always interested in supplemental funding for the program, only get \$30-40,000. Online training- 7,000 individuals
Online Testing- 10,000 people tested, use the Online U. Believes that it is a lot harder to cheat online vs. in person, 9,000 in-person exams. Working on a Spanish version. Legislation on mosquito, banning the applications for mosquitos in the winter and some misting applications. Paraquat or glyphosate data requests have had a lot of them. No specific talks on a universal cut-off date for dicamba.

PSEP- currently down 2 educators, revising the general standards manual (core), mosquito barrier application training. Return to in-person training this winter, will still have the online option available. Have received a couple of paraquat data requests, mainly training requests. Structural Pest Control- Still doing in-person exams only. Working on an online option.

- White Earth - Does not have her credentials yet does have her last OJT with Region 5 and Region 8. Working with the MDA on a pesticide misuse complaint, consultation with MDA enter into some sort of agreement that will allow a timelier response if someone was to move on. Doing a pilot project- exposures that are not currently under the food sources or activities. Deer, berries, grouse. C&T adopting the states standards, would like to do their own however they just do not have the capacity. The state does the training, but the Tribe does the licensing.
- EPA - Pesticide and Toxicology- Number of staff departures, team of 7 now down to a team of 3. TCs are planning all of the end of the year reviews and have them completed by March 2023, final report will consist of the final transmittal letter.
Funding- State Specific guidelines and early award date, go away from that to just a date a single date around early July, hopefully that this eliminates some confusions.
Enforcement- Emails were sent out regarding enforcement activities, any questions reach out to your TC or Estrella
Additional Funds- requesting additional fundings reach out to your TC and Estrella
Pesticide Program- Susan Rittenhouse is retiring at the end of January. Limited on travel funds, most are likely to virtual.
Supplemental Projects- limited to those that have an enforcement aspect to it.

2. Purpose and Background of SFIREG:

Gary Bahr, SFIREG Chair, gave a brief overview of the purpose and background of SFIREG. It was a great refresher for those of us that have been involved for a while and a great introduction to newer staff.

3. C&T Plan:

Regionally/Nationally: Approval date of November 2023, finishing the plans nationally and regionally Indiana and Michigan to be 1st and 2nd. Committed to Headquarters to getting them done in 2023. EPA gave an update of the region 5 states reviews and progress.

Questions-

MN-Meetings regarding EPA's review have gone well, extension has slowed our progress for revisions, hoping to resubmit after the first of the year 2023. Main concerns are the proposed rule and statute language, this will be a very long process. MN has very general language that gives them authority, want to create more restrictive language that is also flexible. Substantial Modifications- online training and exams- EPA is talking about the modifications that happen after the plan is approved. "Delivery methods of training", right now are considered a substantial modification.

Michigan-IPM cannot be a competency tester. Unfortunate artifact of FIFRA, you can not make them show that they are competent in IPM but must make it available upon request. They are addressing it by asking that the IPM part be removed from the plan in the letter. It will not rise to the level of something that needs to be changed.

Illinois- Second revised deadline pushed it back again, EPA was creating a new subgroup to talk about modifications to the plans. It feels that the agency is getting the cart before the horse. With two revised deadlines, doesn't want to see this time frittered away. EPA recognizes that everyone is struggling with the amount of the work that this has created.

White Earth- would like to provide their own recertification one day, will that be able to happen. EPA agrees that it would.

4. EPA Credential Training:

MN- 6 federally credentialed inspectors. Running out of ideas on training, they are required to train with in the program and a second training related to inspector skills. Fedtalent is not providing enough and also looking at breaking out some of the training. A lot of options for inspector skill training on Fedtalent, knows there is an option to repeat the training every 3 years. Program training is where we have more trouble.

WI-suggested to have someone from region do a Teams meeting with us to provide this training, went over authorities and investigations. Download all the PREPs and PIRTs that where given, another resource that would work.

EPA- Program specific training needs to specifically relate to FIFRA. Up to the Supervisor to see what specific training an individual inspector needs and to meet that need. Training on SOPs, re-reading the regulations are suggested training items. Inspector Wiki-using that training

Interesting complaint misuse investigations, label reviewing for usages. Create an agenda and a sign in sheet. Have the inspectors provide that to EPA.

There was discussion on doing a regional training-where we get all of the field staff involved. Something that we should really explore, work together to get this accomplished. Something to work towards for next year, it is something that has become more and more of a struggle. Want to get a small work group to work on this-Sarah Caffery is interested in this, as well as Brian V. Item to work on for next year.

5. Atrazine Interim Registration Decision:

EPA comments: Proposed interim decision based on a routine review of the product. They are only proposed, so there is quite a bit of time to comment on these proposed interim changes.

What are the points in the process that SLAs will have an opportunity for input? EPA is not sure but will ask. (EPA) SLAs are just a consumer of the products as the users are, there always seems to be a gap, key piece is the enforceability and practicality of the label. SLAs never see the label language until it is released. OCEA is not a participant either, a consumer of the end product as well.

MN – provided a copy of the comment letter that was submitted. The modeling information is not supported by actual monitoring data in MN. Many of the proposed mitigation measures are unenforceable.

IN, has similar concerns about the enforceability of the proposed label language, did not send in any comments

WI, did send in comments focused on enforceability. What is the time frame for a draft label or putting this into production? Growers are purchasing product now in the next two months, will label changes be in place for next season? Is there anyway for the SLAs to get ahead of this, there will be

an outreach/education component to this, that EPA is more than likely to not do, except a webpage. EPA-doesn't know about a timeline, no one from OPP specifically was a part of this meeting.

MI- submitted comments via letter, basically consider the risks and benefit when making decision, use science to make these decisions, and then touched on enforceability.

IL- Did not submit comments, had several farmer groups that did submit comments

OH- did not issue any comments, hopes that science plays out and wins. Threshold value is a concern.

WE- did not submit any comments.

EPA- gave a talk to the U of M, gave pointers and asked for people to submit comments.

Any other states that have developed BMPs regarding atrazine, besides MN? NO

Labels need to be clear, mitigation measures are just confusing, the enforceability is in question, labels themselves need to be read for those that use the product. Labels need to be easily understood by the users. Mitigation controls are what the grower is doing, the applicator may not be the grower and you will be holding the applicator responsible for what the grower does or does not do. New area for enforcement, always held the applicator responsible. It will not hold the landowner and renter responsible. If we cannot enforce the mitigation factors and the applicators do not understand them, the mitigation factors are not going to work.

6. Dicamba:

EPA update: Dicamba OT, use has ended for the year, receiving information from different states on what their experiences have been. APPCO organized two surveys one to SLA's and one to Extension. EPA sent letter on September 13th, remind the registrants to submit information to EPA on adverse effects to environment with a deadline to submit that information. Registration review- looking at all dicamba registrations, Oct. 17th end to comment period on the risk assessments. EPA gave updates on the legal actions currently ongoing. Discussion on further label amendments, EPA has received an amendment request- can not comment on the details.

Current issues:

- Specialty crops are showing signs of damage, SLAs are not able to find a source of application.
- SLAs are seeing some decrease in the number of complaints, however the number of complaints is still too high for one single product. Problem will not go away until OT is taken away and only allowed as a pre-emerge product.
- MN – complaint numbers dropped considerably, but also had a cool late spring. Over ½ of complaints were after cutoff date. Relabeling of the old product seems to be unclear. MN is seeing products with both EPA Reg #'s on the containers and no new use instructions. Have referred to Region 5 but unclear if there is anything that will be done.
- Approached the cut-off bad decisions were made, most complaints came in two weeks before the cut-off date. Normally they do not have a lot of complaints, many growers are just not reporting them (OH)
- MI- struggle with non-reporting of damage. Fear is involved without a doubt, there could be

consequences of reporting the issue. When they saw damage it was well after the cut-off date, ag advisor was advising for applications after the cut-off date.

- WI- rumors that registrants have gotten out in front of the advisors saying to call them, not the department.

7. Chlorpyrifos:

EPA comments: Recognize that disposal is a huge issue for SLAs. The latest update will be in the next couple of weeks. Cancellation Notice will deal with disposal issues. Registrants are interested in working through the voluntary cancellation process.

Product return programs- working with registrants that have expressed an interest. The registrants need to provide details on their return process. Expect forth coming voluntary cancellation notices coming in. Registrants are at various stages in the process. 1st has been drafted and is in internal review. There will be an abbreviated cancellation period, not the usual 180 days. Some registrants are voluntarily canceling non-food labeled products.

Concerns about growers not knowing of the tolerance revocation, EPA has not heard of any such situations. MI Cabbage grower, also have heard growers say that they are spraying the weeds in between the rows and not applying to it the crop. Wondering if the USDA is going to ramp up testing of products for chlorpyrifos residue.

Ongoing court case that is in the 8th circuit, no date for oral arguments set as of yet.

EPA can not give a timeline of when these items will move along and be published publicly.

Registrants are putting all responsibility in the hands of the end user again, growers and dealers should be talking to their registrants to get these items moving along.

8. ESA and Pesticide Evaluations:

EPA comments: Weak spot for the agency for a long time, required to consider this for all labels, something that they have not been doing adequately.

Bulletin Live 2: interface has been updated, applicator can go in 3 months in advance. EPA can go back and do a retrospective research to determine what an applicator would have gotten. Do not discuss what species they are trying to protect because of protecting the species concerns.

The data is the concern, is it accurate? List of counties on the label was the mistake.

Could be a habitat that is protected or the species

MI did do 4 targeted inspections to ensure that the applicators had the information, 50% did not have the label.

9. Mosquito Control Mist Blowers – Subscription Based Applications:

Dave Scott (IN) went over the response that was provided by EPA to the white paper. Is this technology being evaluated, responded no and that no hand sprayers, misters or blowers have been evaluated.

Non-target persons, pollinators, wildlife, pets, residences. Logic that they use for indirect exposures, same Ais are used for turf applications, will move 100' and look at the load and risk on that.

Applicators are to keep persons and pets off of the target site until dried, not a mechanism to keep the neighbor of the area that was affect by the application.

Missed and inaccurate- direct exposures, where a person is sprayed on purpose or accidentally, driftable fines that could be going onto pets and persons. Concern is: Is there a direct exposure by the force of the blower? Many residential products, will have label language, not allowing you to contact people or pets directly through drift....this language does not exist on these residential applications.

We all have to rely on state restrictions, rather the label, for drift and state restrictions are getting harder and harder to get in place.

10. Environmental Justice Appendix for Cooperative Agreements:

The lasted version of the cooperative agreement-Environmental Justice component was needed. Document needed to get, promised to add something. They developed something that was a reference but did not require work. Appendix 12 attempts to do just that. Has gone out to States, Tribes and Territories for review.

Appendix 13 is more of an FYI, there may be a requirement for all grants to require civil rights language. Appendix 13 is their attempt to not have to amend all 78 grants to include the civil rights language.

Amend the Cooperative Agreement Guidance to include these to appendixes. Program only, nothing listed for enforcement.

Not new to the cooperative agreement, many SLAs agreed to move forward with languages

Term and Condition related to Civil Rights may be added to the future agreements.

11. Trees, Natural Landscapes and Pesticide Applications:

Fact Finding, to find out what other states are seeing. IL is seeing a significant increase in complaints specifically to trees. Appear to have symptoms of a growth regulator, unable to find a source. Will have an ag field next to a natural preserve, no symptomology along the field edge, but it is further in. Can have two young oak trees next to each other, one is smoked, and the other is not. IL has done some sampling, mainly outside labs doing the testing. Same areas being affected year after year.

IN- have not looked specifically, but have gotten some complaints early on. Have tried looking for specific products at nature preserves, have found products there that have never been used.

OH- a lot of 2,4-D results coming in, a common theme in OH. Not necessarily seeing it on oaks and nature preserves, more on grapes. Scientific studies for environmental loading. If their lab wants - something with out 2,4-D on it they need to go out in December.

WI-3-4 years of consecutive sampling on nature preserves, vegetation and soil samples grabbed 3x a yr. Finding products that have never been applied in these areas. No specific complaints regarding

trees. Drift into trees, they associate it with volatilization.

MN & MI- not really seeing this specific to trees.

12. Methomyl:

Another APPCO survey may becoming out. The old survey is out on their website if you are interested in knowing what was asked in the past.

OH- has concerns, do not have a good handle on the extent of the problem

IN- always have problems with it as long as it is openly and intentionally being misused, general use pesticides. Even if they are not being made aware of all the issues. EPA Less involved in use issue and more involved in distribution issues. The same for MI.

No Issues: WI, IL, MN

13. Diuron:

OH: put into ponds for algae control, killed everything in the pond, not since the mid-80's have they seen problems. The same for IN and MI. MI- made it a state restricted use 5 years ago, because of a couple of incidents.

No Issues: WI, IL, MI, MN

14. Treated Seeds and Articles of Exemption:

IN-no new issues, whether or not they have had pollinator issues they are not sure on that.

MI, WI, IL, OH – no new issues

15. Future Region 5 Pre-SFIREG Meeting Dates:

- May 4th and 5th 2023

Do we move the meetings around? Should they be in person, remote, or hybrid?

Everyone in favor of trying to move the meeting around

Hybrid option will allow others to dial in, in-person is really important and group to commit to sending one person at a minimum to the in-person meeting.

EPA- do they travel restriction, closer locations would be better

Investigate the possibility of holding it around the PACT meeting being held in MI