

## Region 10 Pre-SFIREG Meeting Report

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

Pre-SFIREG Meeting Date: May 2, 2023

Attendees:

Alaska (ADEC): Bob Blankenburg

Idaho (ISDA): Ryan Ward, Brian Slabaugh

Oregon (ODA): Gilbert Uribe, Matt Bucy, Colton Bond, Toby Primbs, and Andrea Sonnen.

Washington (WSDA): Brent Perry, Kelle Davis, Scott Nielsen, George Tuttle, Tina Zimmerman, and Ofelio Borges

EPA: Nick Hurwit; Joseph Wilwerding, Bethany Plewe, Marie Hallinen, Linda Liu, and Chad Schulze

Yakama Nation – Joe Herrera

Overview: The Region 10 Pre-SFIREG meeting was held via Teams.

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

1. **Question: New requirement to develop bilingual pesticide labels was included in the passage of the Pesticide Registration Improvement Act (PRIA), or PRIA 5**
  - a. SLA perspectives on implementing the bilingual language work with EPA and industry going forward?
  - b. Would a survey be helpful to ask with further input as EPA gets closer to establishing their process?
  - c. Interest and ability for SLAs to be a key contributor to the PRIA 5 bilingual language work.
  - d. How should SLAs be involved with certifying and approving translation?
  - e. Barriers for SLAs to conduct any additional work on this topic; such as review labels, approve labels, and online products?
  - f. What are key perspectives from SLAs that can assist SFIREG in future discussions with EPA on this topic?

### **Responses:**

There was significant conversation about this topic during the Region 10 meeting. Oregon and Washington provided detailed responses to these questions, which are summarized below.

### **ODA:**

Yes, a survey would be helpful.

Items for Discussion:

- Translation Guide Updating Process: What will be the process for updating the EPA translation guide? How will different versions be tracked and how will the labels in the marketplace be handled once multiple versions have been utilized? How will different dialects be incorporated into the translation guide development?
- Scannable Link: There has been discussion regarding a scannable link. How would this work for those with limited access to the internet? Also, how would they track what they viewed if questions came up at a later time (e.g. would a printed copy need to be created for records if an enforcement issue arose and retained for some period of time)?
- Label Interpretation: How would an SLA handle if there is a conflict in the interpretation of mandatory language label requirements between the different languages?

#### WSDA:

- Here is the schedule, as WA understands it, for implementation of the bilingual labeling.
  - December 2025 – All RUPs and all category I ag-use non-RUPs
  - December 2026 – All category I antimicrobial and non-ag non-RUPs
  - December 2027 – All category II ag-use non-RUPs
  - December 2028 – All category II antimicrobial and non-ag non-RUPs
  - December 2030 – all other pesticides
  - With this implementation, registrants are required to have Spanish translation of certain sections of the product labels available either on the container or via “scannable” technology. This scannable technology can be a QR code or other link.
- The concern here is that “use”, as EPA defines it (particularly with the updated definition under 40 CFR 171), can and does occur in areas where connectivity is extremely poor or non-existent.
- The intent here is to make Spanish translations of those sections of the label available to individuals that may not be able to read or interpret labels in English. However, there is no consideration of the method in which users can access that information.
- One response from EPA/RISE during the SFIREG JWC meeting was that in speaking with NGO’s, they determined that “everyone has smartphones.” While that is not true, even if someone had a smartphone, there may not be connectivity in the area they are working to be able to access that Spanish label.
- Washington is preparing a survey to our licensees that indicated Spanish as their primary language asking the following:
  - If they have a smartphone or other device they can use for work
  - County they work in
  - Connectivity in the area they work

- Another concern is that there is an allowance for registrants to provide a link to the Spanish version of the SDS rather than a direct translation of the specific sections of the label for antimicrobials and non-ag non-RUP products. In many cases, the SDS may bear language differing from the label.
  - Most SDS's follow Globally Harmonized System (GHS), which include pictograms that are not found on FIFRA regulated labels. In addition, GHS compliant SDS's never use the signal word CAUTION. The first category of signal word is WARNING. This may be confusing to applicators when the product label has a signal word of CAUTION and the SDS has a signal word of WARNING.
- Updates to labels with the Spanish translation or link to the Spanish label can be done via non-notification. There will be no record in PPLS of the update to the label. We will not know when the update was made and various state requirements with label revisions may hinder approval or cause compliance issues in states where approval of every label revision is required under statute or rule.
- While the requirement only applies to sections of the label that appear in the Spanish Translation Guide, a registrant may choose to translate the entire label including directions for use. Since this update can be made via non-notification and does not require EPA approval, this may result in compliance issues if the Spanish translation is incorrect or inconsistent with the EPA amended label.
- What are the enforcement provisions for bilingual labeling-specific violations? If an applicator follows the instructions on the label, but the label is incorrect, which party is in violation of the label? The registrant?

2. **Question: C&T Plan approval processes and the feedback from EPA Regions and Headquarters:**

**Responses:**

**ADEC:**

- Alaska's revised regulations that implement changes reflected in our approved Certification Plan were approved by our Lieutenant Governor and will be effective June 18, 2023.

**ISDA:**

- Idaho is still working with EPA on the approval process for their Certification Plan.

**ODA:**

Current Status: Oregon's revised C&T Plan was approved in Fall of 2022. In 2022, the Oregon Legislature enacted legislation to make the statutory changes need to comply with 40 CFR 171. We are currently working on rulemaking and developing plans for manual/exam development. Additional details are provided below.

- Manuals: Oregon needs to revise/replace 16 certification manuals (average age of 14 years) to meet new competency standards. Due to the short timeline for manual development (1/2026), Oregon anticipates developing addenda for existing manuals rather than developing or revising manuals initially. At the same time, we are working with our PSEP to develop a longer-term plan for manual development/updating.
- Rulemaking: Due to limited staff resources, rulemaking may extend beyond the current deadline outlined in our implementation deadline (1/2026).
- Non-certified applicator training: Oregon plans to utilize the annual training materials for non-certified applicators developed by PERC. Oregon will need to develop an addendum to address state-specific laws/regulations.

Issues for Discussion:

- PRIA 5 requires that the next PERC grantee be a non-profit farmworker organization. Has EPA identified alternative pathways to funding/supporting the development of national or regional certification manuals/exams?
- What is the process for amending the implementation timeline for an EPA-approved plan?
- What criteria will EPA utilize to approve or deny requests for amendments?
- What would happen if a state could not meet a deadline in their implementation timeline and EPA denies the request to amend said timeline?

3. **Question: ESA Workplan concepts for mitigation, labels, and Bulletins Live! 2:**

What are the current issues and/or questions for the implementation of the concepts in the EPA ESA workplan and the mitigation strategies proposed? How will SLAs work to implement the mitigation measures, ESA label statements, ESA BEs and BiOps, and Bulletins Live! 2? Should there be a SFIREG issue paper for the June SFIREG meeting and letter sent to EPA specifically related to this topic? Do SLAs have further information on how mitigation measures for the Enlist One and Enlist Duo products been implemented? There is a lot happening on this topic and we appreciate your input.

**Responses:**

There was significant conversation about both the ESA workplan and on Bulletins Live! 2 during the Region 10 meeting. Oregon and Washington provided detailed responses to these questions, which are summarized below.

**ODA:**

***Items for Discussion:***

- Documenting Bulletins: Is it recommended pesticide users print or save a copy of the bulletin (if label requires checking)? What would a user get if they called the 1-800 phone number? How would non-internet users try and document that they checked?
- Property Control Question: How would states address when a mitigation measure is a land-based action and it is out of the control of a hired/custom applicator (not the property owner)?
- SLNs: When do SLN users need to start complying with an ESA bulletin? Must the BLT2 reference appear on SLN labels going forward? Will SLAs take the lead on revising SLN labels to add this reference, or will registrants be submitting these amended SLNs directly to PRD for approval?

Example:

State has an existing SLN registration for active ingredient X.

A Bulletin is approved for active ingredient X.

Our understanding is that applicators must refer to BLT2 and comply with the Bulletin only if the label affixed to the container in their possession contains a reference to BLT2.

- a) Question 1: If the Section 3 label contains an Endangered Species section/reference to BLT 2, will EPA require that this label section ALSO appear on the labels of any SLNs issued for that product?
- b) Question 2: If EPA will be requiring the BLT2 reference to appear on an SLN label, when must this reference be added to the SLN label?
  - Shortly after the amended EPA Section 3 label that adds the BLT2 reference has been stamped “ACCEPTED” by EPA? -or-
  - When the market label that has been revised to include the BLT2 reference has been approved by the SLA? -or-
  - When the state believes that the amended market label (i.e., the market label with the BLT2 reference) has become the main label in the channels of trade (i.e., the older-labeled product that lacks the BLT2 reference has largely been sold out and existing stocks have largely been used up by growers)?

**Depending on whether a BLT2 reference must be added to an SLN label and when it must be added, we could have a situation where someone using a product under its main label uses **WOULD NEED** to comply with the Bulletin, while someone applying the product under an SLN label **WOULD NOT** need to comply with the Bulletin, or vice-versa.**

- c) Question 3: Finally, if SLN labels do need to be revised to add a BLT2 reference, will SLAs be in charge of approving these revised labels, or will registrants be submitting these revised labels straight to PRD for approval?

*Other Suggestions:*

- Printable Bulletin formatting may not be clear as currently formatted.

For example, see the attached annotated Bulletin that covers parts of OR and WA – PULA ID:63, Event Name: Salmon BiOp 7, Application Month: May 2023.

- The Bulletin is 56 pages and covers all 4 ais. Four separate bulletins (one for each ai) would be more reader friendly.
- If a single product is affected by multiple codes, those codes should all be presented on one line. Currently, each code is a separate line, with no indication to the reader that multiple codes apply. These lines are not necessarily near each other either.
- Example: ground application for any ag use of Caparol 4L Herbicide is subject to 2 separate restrictions (PRF22 & PAB22), which are found 50 pages apart.
  - PDF p. 2 CAPAROL 4L HERBICIDE (100-620, prometryn) – all ag uses, ground spray has code PRF22
  - PDF P. 52 CAPAROL 4L HERBICIDE (100-620, prometryn) – all ag uses, ground spray, has code PAB22
  - Therefore, someone applying Caparol 4L Herbicide to an ag crop via ground application would need to comply with both codes PRF22 and PAB22, which the current printable bulletin does not make clear.
- Education and outreach are needed on what to look for and what to do. States are working on creating outreach, but any additional resources would be very helpful.
- Having a phone app to check bulletins will increase accessibility.

### WSDA:

#### Accessibility Issues for people with colorblindness:

- The **red** (Printable Bulletin)/**green** (Printable Bulletin) button appears **gray** to people with colorblindness. There is no way to tell them apart because the text is the same.
- The color contrasts on these maps are hard to read and may not be accessible to people with color blindness. This is especially true when the PULA (in flesh/pink) overlays the light yellow that has identifying text. The text is so washed out that it is nearly impossible to read, and therefore impossible to accurately pinpoint an area of intended application.

#### Mobile Device Accessibility

- Bulletins Live! Two is not mobile friendly.
- Not compatible with iPhone Safari (latest version)
- Not compatible with Android Google (latest version)
- Some people do not have access to a computer to get Bulletins.

#### Website Hard to Navigate

- The BLT website is confusing
  - The product label directs people to go to <http://www.epa.gov/espp/>
  - **Then** they have to click *Bulletins Live Two* link
    - The landing page itself instills a moment of confusion because you have to wait for the banner to change or scroll down to find links to

click. Even then clicking on this BLT link brings you to another page that still isn't BLT.

- **Then they have to** click *Obtain Bulletins using EPA's Bulletins Live! Two application* link
- Each time someone has to click a new link it is one more chance for them to get lost, confused, frustrated, or end up just not trying.

#### Website is incredibly slow to load

- Many users think that it is not working and repeatedly click the map location as the website is "loading search results." And then give up.
- It is really hard to tell when the search is 'thinking' or when it is waiting for the next action.

#### PULA should be defined on the EPA tutorial webpage

- The tutorial page at <https://www.epa.gov/endangered-species/bulletins-live-two-blt-tutorial> uses the acronym PULA under point 5, but it is never defined on that page.

#### The order of input entries in the blue search box on the Bulletins Live! Two page causes users to create Bulletins with multiple products and numerous pages.

- People tend to enter information in the order it is presented.  
The current layout of the Bulletin page is:
  1. Location Search
  2. Application Month
  3. EPA Registration Number

When a user does not have a specific US postal address or a "known" location in the BLT website to enter (and is zooming in on the page to find their property and land where they intend to apply) the website will create a bulletin for ALL the pesticide products associated with the PULA.

For instance, if I followed the order of fields presented to me:

I live near Heritage Park in Olympia WA.

I type that in the Location Search box.

The Location Search box lists some possible locations that match my search and I select the correct one.

The interactive map shows Heritage Park on the map.

But I don't live in Heritage Park, I live near it.

I click the area on the map where I want to actually apply the pesticide.

The website creates a printable Bulletin that is **56 pages** long and contains all pesticides that are associated with the Salmon BiOP 7 PULA.

It would be BETTER if the search input boxes were RE-ORDERED:

1. EPA Registration Number
2. Location Search
3. Application Month

**EPA registration number should be listed first.** Remember that the user already has the product in-hand, has been directed to go to the Bulletins Live! Two site via label directions, and the EPA registration number is on that label.

After entering in the EPA registration number and selecting the actual product they are using, the user can type in their location address, or even zoom in on the map to their intended application site.

Using this order of entry creates a Bulletin specific to THAT Product—and that is **only 2 pages long.**

#### “Zoom to Selected”

- Once you have identified your location, month, and product and get the option to print the bulletin, there is also a blue button in the lower left corner called “Zoom to Selected.” However, clicking this button zooms the view of the map out to a larger area. Calling it “Zoom to Selected” insinuates that it will zoom in on the area selected, not zoom out to a broader area. This button should be renamed.

#### Spanish language Bulletins?

- With the effort to have bi-lingual labels, will the Bulletin’s be available in Spanish?

#### Will Bulletins be limited to Agricultural Use products only?

- Are the ESA bulletins only on agricultural use type products or could they later involve active ingredients that are also used in residential settings by homeowners?
- Many of WA state ESA salmon streams (PULA’s) in western WA are in urban and residential areas.

#### Additional Species Added to Bulletins

- When endangered plant species area added to the Bulletins, most herbicides will have restrictions.
- The lists will get more cumbersome on the website/link. Which is even more of a reason to list EPA registration number first in the order of fillable entries.
- Graphic loading for the various PULA’s will likely slow the webpage even more, causing user frustration.

#### Compliance Issues with Following the Bulletin

- The label requirement is that the applicator must “follow the measures contained in the ESA bulletin for the area they are applying the product.”
- This means that they are required to always check the link/website, for that product.
- However, the guidance says it is “recommended, suggested”, that they print a copy for their records, but “not required.”
- What minimum standard will be required (under FIFRA) as evidence they checked? If the applicator verbally states they checked, is that sufficient?
- Is the requirement that they “follow the bulletin”, but not print and record a copy?



- If their application area is not within the PULA, do they need to print and save? Recommended?
- If they DID print or save an image of the Bulletin, how long does the applicator have to keep a copy?

4. **Question: Rodenticide PIDs and Regulations:** Are there additional topics related to rodenticide regulation that have emerged after the comment period for the Proposed Interim Decisions (PIDs) closed on February 13, 2023? The PIDs were open for comment for the three first-generation anticoagulant rodenticides (FGARs), four SGARs, and four non-anticoagulant rodenticides. Also, Strychnine was a part of the rodenticide group.

**Responses:** There were no significant comments from any of the Region 10 states on this matter.

5. **Question: SLA Updates on experiences with the current FIFRA Cooperative Agreement, Funding, Reporting, Staffing, Credentials, and other administrative topics:** As SLAs around the nation continue to work under the existing cooperative agreement, please discuss topics that are going well and also topics that could be addressed as we move forward toward closing out this cooperative agreement cycle and beginning to negotiate the new grant guidance. Are there current topics that need some attention also?

**Responses:**

**ADEC:**

- Individual EPA staff are extremely helpful and knowledgeable. Many of the existing cooperative agreement required elements do not apply in Alaska, and our grant coordinator has been very accommodating in how we address those requirements. The transition to the grant database over the last few years has been confusing and complicated, although it did work well this year. As usual, the credentialing process is rife with broken links, failed credits, and complications. CPARD is also almost always non-functional.

**ISDA:**

- Regarding EPA's initiative on Environmental Justice, how does EPA want SLAs to address EJ as part of cooperative agreements?

**ODA:**

- There seems to be an increased interest in states to conduct e-commerce inspections. It would be helpful if states could count these on the 5700 (since an e-commerce inspection would not involve an on-site element).

6. **Question: Chlorpyrifos:** On Feb. 25, 2022, EPA released and filed a [final rule](#) revoking all “tolerances” for chlorpyrifos. Are there any additional topics or issues to be discussed?

**Responses:**

**ISDA:**

- Idaho had one issue involving a dealer who needed to dispose of a quantity of chlorpyrifos, and transportation of the material falling under “distribution”. The issue was resolved and the product is headed for disposal via incineration.

**ODA:**

- Providing disposal options, funding for disposal, and outreach on the topic.

7. **Question: Atrazine Interim Registration Decision:** EPA has proposed changes to Atrazine registrations and there was a comment closing date of October 7, 2022. What questions and concerns do SLAs have related to Atrazine and mitigation measures strategies? Is there anything new to share or learn?

**Responses:**

**WSDA:**

- Re: New mitigation measures that an applicator must select from to properly apply Atrazine-containing herbicides.
    - Are the selected measures to be kept as part of the required record keeping for each application? If so, how long must a record of these selected mitigating factors be kept by an applicator?
    - Commercial applicators applying to crops and other growers renting the ground to be treated with Atrazine, may not have any control over the maintenance of buffer zones or other picklist mitigating factors required.
    - Crop rotation issues—For example, corn, potatoes and other row crops frequently in rotation together. Picklist mitigation measures would be required for atrazine use on corn, (for instance a vegetative filter strip), which then would likely be removed when other crops are planted that do not require atrazine.
8. **Question: Dicamba:** What questions and concerns do SLAs have on the Dicamba regulatory topic? Also, are there updates from SLAs on Dicamba regulation and cases for 2022 and into 2023? <https://www.epa.gov/pesticides/dicamba>

**Responses:** The issues concerning Dicamba are not faced by any of the Region 10 states.

9. **Question: New and Ongoing Issues:** Are there any new Issues or ongoing issues that might develop into White Papers or Issue Papers.

**Responses:**

**ODA:**

- SLN Labels:

ODA requests that EPA state which label elements required by a Registration Review Interim Decision (ID) must appear on SLN labels. ODA's understanding is that, generally, only the Mode of Action box must be added.

PRD-approved SLN labels have made changes that have not been required by an Interim Decision. Specifically, ODA has received SLN labels that have been revised to add unnecessary label sections/label statements from the Section 3 to the SLN label. If EPA is requiring certain sections to be duplicated from the Section 3 onto the SLN label as part of registration review compliance, then please provide this information to SLAs. Otherwise, the SLN label format is up to the issuing SLA, and it is not appropriate for the registrant and chemical review manager to approve changes if they are unrelated to the ID. Such revisions should go through the SLA.

EPA's 24(c) website states that all amended SLN labels must come from the issuing state. However, EPA now states that SLN labels that have been amended to comply with an ID must come from the registrant. Thus, EPA's website should be updated accordingly.

**“Request to Amend a 24(c) Registration.** In order to process an amendment, EPA must receive the amended 24(c) registration from the state that issued the 24(c). (<https://www.epa.gov/pesticide-registration/guidance-fifra-24c-registrations>)

In addition, it's our understanding that POM is working on revising AAPCO's draft 24(c) guidance to, among other things, contain updated information about SLN revisions as part of registration review.

Will EPA plan on eventually approving AAPCO's draft 24(c) guidance? If not, what is the timeline for producing an updated EPA guidance on 24(c) registrations?

“The association presented the guidance to the EPA. Though the EPA consulted in the development of this draft guidance, the Agency has not adopted it. Instead, the OPP continues to rely on its guidance document provided on the SLN program website. OPP management later stated to us that it does not plan to adopt the AAPCO guidance but that the AAPCO guidance is available for states to use without the EPA's endorsement” ([https://www.epa.gov/sites/default/files/2021-02/documents/epa\\_oig\\_2020210-21-e-0072.pdf](https://www.epa.gov/sites/default/files/2021-02/documents/epa_oig_2020210-21-e-0072.pdf))

- Revised MOU between EPA & FDA

- Once an amended MOU is signed, what is the timetable for states that register these products as pesticides to adjust?
  - In some states, state law or regulations (e.g., definition of pesticide) may need to be amended.
  - In Oregon, products remain registered until they clear the channels of trade.
  - For products with multiple uses on the label (topical and animal area uses), what process does EPA anticipate for amending Section 3 labels?
- Based upon the white paper and the comments, the transfer of products to FDA may not be limited to pesticides used on companion animals (livestock animals, honey bees). Is this correct? Where does EPA anticipate drawing the line?
  - “topically administered products for external parasites of animals”
  - “Use of “topically administered products for animals” refers to topically administered products intended to treat external parasites of animals.”
  - “Use of “animal” refers to any eukaryotic organism (multicellular), including mammals, birds, amphibians, mollusks, insects, etc. and excluding humans.”
- If livestock/honey bee topical treatment products are transferred to FDA, can states limit the scope of their livestock certification category and associated certification manuals/exams? Would an amended C&T plan be required?
- Does FDA’s regulatory process include considerations for sensitive populations (children, aging populations) who may be exposed to topical products applied to companion animals?
- If regulation of topical livestock products is transferred to FDA, how will this impact tolerances?