

**Region 1 New England  
Pre-SFIREG November 8, 2023  
Meeting Report**

The meeting was held both on-line and at the United States Environmental Protection Agency Laboratory office in Chelmsford, Massachusetts, on November 8, 2023, beginning at 9:30 a.m.

**Introductions:**

Attendance*						
EPA	VERMONT	MAINE	NEW HAMPSHIRE	RHODE ISLAND	CONNECTICUT	MASSACHUSETTS
Andrea Szylvian	Steve Dwinell	John Pietroski	David Rousseau	Howard Cook	Diane Jorsey	Taryn LaScola-Miner
Maya Babu	David Huber	Pam Bryer				
Sharon Hayes		Alexander Peacock				
Kelsey Sullivan						
Claire Willscher						
*On-Line: Gary Bahr (Washington), SFIREG Chair Megan Patterson (Maine), AAPCO President						

**Agenda Item: EPA Update**, Sharon Hayes, Claire Willscher, Andrea Szylvian, Kelsey Sullivan providing updates for EPA Region 1:

- Region 1 Pesticide Staffing Update – Enforcement individual scheduled to begin November 20<sup>th</sup>
- Certification and Training Plans – note that all plans approved with work to be done for implementation
- National Pollutant Discharge Elimination System (NPDES) Permit in the process of updating
- Grant Data Base and reporting
- Cooperation Agreements and End of Year Reporting

**Agenda Item: State-by-State Updates**

- Rousseau asked the states, in addition to reporting on state-specific topics, particularly topics that may be helpful to bring to the attention of AAPCO or SFIREG, to include in state updates any specific concerns relative to: state lead agency relationships with sister agencies, such as fish and game relative to the Endangered Species Act (ESA) initiative; enforcement activity or review relative to eCommerce; and state requirements relative to Unmanned Aerial Vehicle (UAV) use for agricultural activity.

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**New Hampshire**, David Rousseau reporting:

- **ESA and Relationship to Sister Agencies** communication could be improved; challenge given specific statute charges per agency
- **eCommerce** only reviewed as needed (e.g., clear non-compliance matter), staffing challenge
- **Agriculture and Drone Use** requires special permit in addition to applicator certification
- **Rodenticide** In response to a bill to ban second generation anti-coagulant rodenticides, a task force was formed to review rodenticide residue in wildlife.

**Vermont**, Steve Dwinell and David Huber reporting:

- **eCommerce** Major efforts, including direct contact with senior corporate contacts, to inform on-line entities the need to secure a pesticide dealer license.
- **Rodenticide** Efforts underway to stress the importance of minimizing rodenticide use through conducting surveillance first, and if using rodenticide, to check bait stations within two weeks of placement. Vermont held a training session for structural pest control companies focused on the proper use of rodenticide.
- **Unmanned Aerial Vehicle** Discussion of Vermont allowance; permit required; permit form provided.
- **Endangered Species Act** – Steve Dwinell is on the AAPCO ESA Work Group; presentation provided later on this meeting.

**Connecticut**, Diane Jorsey reporting:

- **NPDES** Note permit expiration; revision to general permit.
- **eCommerce** Effort to reach out to on-line entities.
- **Unmanned Aerial Vehicle** Regulations allow; 10-acre cut off for special permit.
- **Rodenticide** Legislative proposal to ban second-generation anticoagulant rodenticides.
- **Neonicotinoid** Proposal to further restrict neonic use.

**Rhode Island**, Howard Cook reporting:

- **RUP and tracking products**
- **Aldicarb** a particular incident noted relative to a pesticide no longer registered
- **Unmanned Aerial Vehicle** Permit required for aerial application, e.g., larvicide use
- **Mosquito Mist Blower** concern
- **Neonics** state limited use for outdoor applications

**Massachusetts**, Taryn LaScola-Miner reporting:

- **eCommerce** concern; flagging certain activity; consideration for enforcement action

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- **Unmanned Aerial Vehicle** No special permit required for agricultural applications
- **Endangered Species Act** notes on communication with sister agencies such as fish and wildlife
- **Glyphosate** Phase II of the science review by the Massachusetts Glyphosate Commission complete. Note on certain specifics including twenty-four water suppliers monitoring water; all samples non-detect; report may be made available.
- **Mist Blower Mosquito Treatments** Challenge on-going, concern active

**Maine**, John Pietroski, Pam Bryer, Alexander Peacock reporting:

- **Local Control Challenge** Maine noted that approximately 30 communities have local pesticide regulatory authority and the absence of state pre-emption poses a challenge and often confusion relative to state-wide pesticide oversight.
- **Unmanned Aerial Vehicle** use in the state identified; forestry activity noted with pre-notification requirement;
- **Endangered Species Act** activity note on study group to include species review, locational information; spot vs. wide area, “points”; enforcement; habitat; applicator decision based on ESA strategy; technical assistance question, e.g., Extension; forestry and mitigation, herbicide strategy not readily transferable to forest work; specific species noted including Lynx and the Rusty Patched Bumblebee; internet access concern regarding applicator ability to review information.
- **eCommerce** Staffing challenge
- **Product Registration** challenge with state registration PFAS requirement
- **Neonic** outdoor ban with some exemptions; marketplace inspection noted
- **Mosquito Mist Blower Applications** and compliance concerns noted

**Agenda Item: SFIREG Topic Considerations**

- **Endangered Species Act and EPA Activity Discussion**, Steve Dwinell, Presentation, “*EPA – Endangered Species Workplan Development and Implementation*”

Rough Notes on Presentation:

Background:

- Pesticide consideration through product registration process to prevent jeopardizing species or habitat
- Lengthy registration process to review each active ingredient relative to each listed species, review includes consult with USFWS and/or NOAA Fisheries Service
- Registration cannot result in jeopardy or adverse habitat modification

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- Effort to address lengthy process, initiate new strategy, such as grouping types of pesticides (herbicide, insecticide, etc.), underway
- Implementation through Bulletins Live! Two
- Given approach/breadth of topic, new strategy/initiative, there are many questions/concerns; uncertainty for pesticide users and crop producers; as well as questions relative to communication, education, and regulation.

Relative documents noted: 11/2022 ESA Workplan Update; 6/2023 Interim Ecological Measures; 6/2023 Vulnerable Species Pilot Project; 7/2023 Herbicide Strategy

Approach:

- Meet ESA obligations when registering new conventional pesticides
- Incorporate mitigation measures before consultations have been completed or even begun
- Evaluate types of pesticides as a group (e.g. herbicides, insecticides, rodenticides) and apply mitigation measures to types of pesticides, not just specific active ingredients
- Apply protections over broader areas and crop types as a preventive measure

Implementation phase – Milestones/Timelines noted

- AAPCO Workgroup in place
- Public comment period complete

Implementation phase – ESA Workplan Update

- FIFRA Interim Ecological Mitigation (IEM) surface water protection; spray drift management requirement
- Implementation through identifying measures on the label; Labels will reference Bulletins Live! Two
- Vulnerable Species Pilot Project implemented over the next 18 months
- Grower identifying mitigation measures in place prior to use; “Points” options discussed
- Mitigation focused on avoidance and minimization

Implementation phase - Concerns:

- ESA effort identified as significant.
- EPA HQ ESA effort not fully communicated to EPA Regional offices
- Coordination/communication between relative agencies, EPA, SLA, USFWS (other federal agencies), Extension (other educators)
- Compliance challenge to farmers; significant complexity to farmers/growers
- Major Change – Enforcement Guidance Needed (including messaging to regulated community)

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- Pesticide Use Limitation Area (PULA) – communicating changes/additions. Range Map may overextend from actual habitat and species location; discussion of identifying state listed endangered species and how that is managed at the state level.

Presentation Conclusions (verbatim from slide):

- The effect of the strategies being proposed is the addition of a significant level of complexity to the decision-making process for agricultural producers when designing their weed management program.
- Absent sufficient understanding by the end user and an effective compliance assurance process, this level of complexity will result in a general failure to achieve the intended protections designed into the HS.
- Existing certification and training programs will not be adequate to incorporate the level of training and information needed to understand and implement these measures.
- Information on what the measures mean in practice, how to implement them, and how to determine if a pesticide application complies will have to be developed and shared among all stakeholders.
- Success of the mitigation measures in preventing jeopardy and adverse modification will be determined by the level of compliance with the requirements.

Improving communication on this issue (verbatim from slide):

- EPA Region/SLA committee
- New SFIREG standing committee
- NRCS/USDA OPMP Involvement
- Regional FWS contacts

Discussion, throughout and following the presentation, included the following suggestions:

- **HQ/Region Communication:** (state recommendation) Increased communication between EPA HQ ESA and EPA Regional offices suggested
- **PULA on Bulletins Live! Two:** Notification system (or improved method of communicating updates) for Pesticide Use Limitation Area (PULA) modifications suggested
- **Extensive PULA and Actual Habitat:** Review species and habitat
- **Coordination Amongst Involved Parties:** Engage work-practice and education partners, e.g., NRCS, Extension, others; Technical Service Providers; NOAA fisheries, USDA NRCS State Technical Advisory Committee (STAC)
- **Certification & Training:** Include mitigation strategies through Certification & Training

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- **SFIREG Committee:** New ESA Implementation standing committee within SFIREG recommendation
- **Fish & Wildlife Agencies:** Identify and engage FWS, F&G contacts
- **Regional Priority List:** ESA as priority at regions more time for discussion/national workshops
- **Funding:** Funding for Extension, Pesticide Safety Education Programs and SLAs
- **Enforcement:** Guidance; Phased approach consideration (like WPS)
- Pick List Discussion – Regional Priority List, greater flexibility
- Opportunities to work with AAPCO and SFIREG
- Recommendation to provide input on how the proposed change would work

**Other National Topics Reviewed/Discussed**

- **Atrazine** discussed
- **eCommerce**
- **25(b)**
  - Some states register
  - Review concern and efficiency
  - Fate and misleading claims
- **Antifungal/Antibacterial**  
State review Post COVID
- **SAFHER**

**Other New England Topics Discussed:**

- **Reciprocity Discussion** some states interested in certification reciprocity; may work for some states, may not work for others; some opportunities and barriers noted.
- **Pre-emption concern** - states without pre-emption noting the challenge of local initiatives to regulate pesticides. There is often confusion on a number of levels (local to state; local assumption; industry; who regulates what and to what degree?). Would the Farm Bill be a possible vehicle to attempt pre-emption language to maintain pesticide control at the state level?

**Agenda Item: Wrap Up**

- **Topics/Issues for Full SFIREG Review**

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1. Endangered Species Act Initiative/Activity

a. **Region Priorities Shift:** Consider ESA as an EPA regional priority; Add or consider replacing a priority, preferably Pollinator Protection, with Endangered Species

b. **Specific SFIREG Committee:** Consider a new SFIREG committee for the ESA initiative

c. **Funding:** Funds for implementation SLA and partners, such as Extension; PERC(?)

d. **Training:** Training on ESA SLAs, inspectors

e. **Notification:** Timely notice of products registration/label change (e.g., Bulletins Live! Two and Pesticide Use Limitation Area - PULA) Notification, EPA Mechanism to notify states with regard to PULA; Need EPA provide regular updates OPP through communication group; Need to be notified of BLT

2. Ecommerce – This is a challenge, e.g., internet sales of products non-compliant with state and federal regulations, e.g., sales of federal and/or state restricted pesticides without proper credential (licensing).

3. Rodenticide Final Decision - What is the expected date of the Final Decision? Current challenges at the state level, particularly with state legislatures where a Final Decision would be helpful.

4. Mist blower white paper status?

5. Bilingual language review – What efforts are being considered to ensure proper translation?

6. Pre-emption consideration

No new issue papers recommended at this time.

Spring 2024 Region 1 pre-SFIREG meeting schedule consideration for May 1<sup>st</sup> or May 8<sup>th</sup> depending on room availability at the EPA Lab in Chelmsford, Massachusetts beginning at 9:30 a.m.