

**EPA REGION 3**  
**REPORT to Full SFIREG**  
**State FIFIRA Issues, Research, and Evaluation Group Meeting**  
**December 4-5, 2023, Alexandria, Virginia**

The EPA Region 3 Pre-SFIREG Meeting was held November 1-2, 2023, at the West Virginia Department of Agriculture's field office in Inwood, WV. Attendees included: Christopher Wade and Jimmy Hughes (DE); Rob Hofstetter, Alex Lehmann and Kelly Love (MD); Jessica Lenker and Matt Kohan (PA); Grant Bishop and Chad Carpenter (WV); Liza Fleeson Trossbach and Marlene Larios (VA); Courtenay Hoernemann and Christine Convery (EPA Region 3). Joining virtually were Megan Wilkerson (DC); Camille Lukey, Debbie Moody, Hannah Bartling, Kyla Townsend-McIntyre and Harry Daw (EPA Region 3).

As part of the meeting, Region 3 Staff provided updates on a wide variety of topics. The Land Chemicals and Redevelopment Division (LCRD) provided updates on the status of C&T Plans, credentialing updates, WPS, pollinator protection, FGD and grant/budget. The Enforcement and Compliance Assurance Division (ECAD) provided information on the Spring WIRE, status of State PEI's, updated FY24 inspection targets, ECAD oversight inspections and file review and updated the group on electronic Inspection Files review. In addition, non-ag use inspections were discussed with attendees.

The following items were specifically requested from full SFIREG and discussed during the PreSFIREG meeting.

- C&T Plan approvals
- ESA Workplan, Vulnerable Species Pilot, Herbicide Strategy and other topics for mitigation, labels and Bulletins Live! Two
- FIFRA and OECA Cooperative Agreements
- Registration Review
- Rodenticide PID's and Regulations
- SAFHER Database
- PRIA 5 Bilingual Label Language Work and Implementation
- eCommerce
- Chlorpyrifos
- Atrazine Interim Registration Decision
- Dicamba
- 25(b) Issues, False and Misleading Claims and Solutions
- Antibacterial and Antifungal Resistance Framework
- New and Ongoing Issues

**C&T Plan Approval Process**

All Region 3 Plans have been approved. Most plans now going through the legislative process with full implementation in Delaware expected before years end. However, there was a consensus among the States that there was a lack of understanding on EPA's part on how the state process works. Plans have been written, submitted and approved by EPA. What happens if

regulation or statute changes are not accepted by state legislatures? We need guidance if that happens. Frankly, reporting checklists and any guidance documents should have already been sent out to the states.

### **ESA Workplan, Vulnerable Species Pilot, Herbicide Strategy and other topics for mitigation, labels, and Bulletins Live! Two**

As stated previously most Region 3 states have already incorporated information about mitigation measures, label language during recertification meetings, via press releases and on their website including a direct link to Bulletins Live! Two. States have experienced an icy reception from the ag community especially with the mitigation measures. Primary concerns revolved around Bulletins Live! Two. EPA needs to ensure the system is viable and user friendly. This seems to be something that has been corrected and/or is being corrected. Accessibility is still an issue with spotty cell/internet service throughout the region. There is also a need for map refinement. More work needs to be done on whether or not the species is in the “restricted” area or if the maps are so widespread only because they may contain a “conductive habitat” for the species in question. States remain concerned with enforceability.

### **Reviewing and renegotiating the FIFRA and OECA Cooperative Agreements**

Discussion was limited to specific topics. States agreed that eCommerce should be included in the Agreement. Water quality data issues remain for those states that do not have an active monitoring program. Some data that is used can be 3<sup>rd</sup> and 4<sup>th</sup> party data. Additionally, the data is often outdated.

### **Registration Review**

No major discussion or issues on this topic. States were asking when the Neonic review would be complete.

### **Rodenticide PIDs and Regulations**

May possibly see some certification issues as many applicators are working under the supervision of a certified applicator.

### **SAFHER database**

Region 3 is generally in support. However, it would require administrative and or IT Dept. approval. Two primary questions that came up during the discussion is what is the cost and when will it be available?

### **PRIA 5 Bilingual Label Language work and implementation**

Again, as stated previously, should not pose a huge issue for Region 3. Only part of label that will be enforced is the English version. We do have some concerns about label accessibility for the workers (where will they be and will that be enforceable or just a suggestion on where growers will have to keep the labels?).

## eCommerce

Most Region 3 states are conducting eCommerce inspections, in some form, and count them as marketplace inspections. Guidance documents from EPA would be helpful. As stated above we wouldn't mind seeing eCommerce as part as the new grant guidance, possibly as a picklist item.

## Atrazine Interim Registration Decision; Dicamba and; Antibacterial and Antifungal Resistance Framework

No issues/comments in regard to the above.

## 25b Issues, False and Misleading Claims, and Solutions:

No significant issues to date. The primary issue we have with 25b's is the lack of, or no lab analysis methods available making it difficult for drift investigations. This issue was raised previously with Region 3 States interested in any discussion by AAPCO's Laboratory Committee looking towards resolutions.

## Miscellaneous

In addition to the above, the group discussed several state specific issues including EPA's request for comment on the use of pesticide treated seed and paint. Updates were provided on the 2023 Inspector's Workshop held in DC including survey results and topics requested for the 2024 Workshop hosted by PA. As stated in our previous report, Delaware, Maryland and West Virginia have all indefinitely paused their pesticide container recycling programs due to Contractor issues (inconsistencies with reliability and rejection/acceptance of containers). As such, an estimated 150,000 (plus) pounds of plastic have re-entered the waste stream and these programs that have taken more than 20 years to build have been irreparably harmed.

## State Reports – Select Highlights *(complete reports available upon request)*

### **Delaware**

- **Staff Update** - New Castle County Inspector position filled - Lindsay Swinger  
Will be gaining another Inspector position spring of 2024 – funded by Marijuana Commission
- **Equipment/Technology** - Laboratory equipment has been updated to allow remote access; chemist can now review analysis remotely. LCMS/MS is getting another sensor added to increase efficiency. Installed water purification station in laboratory, this machine creates LC grade water for analysis. State of Delaware OMB is overhauling all payments services, this will impact our Salesforce database, our platform was selected as an “early adopter” for the new payment software, we are hopeful that services are not interrupted by these changes.
- **Regulatory Changes** - Certification and training changes were submitted to the state registrar office, approved and updated with all of the changes. Public can now view up to date version on website. Outreach on these changes/additions has now begun. Marijuana

was legalized in Delaware; no pesticides are allowed to be used currently but Marijuana commission created a position within the Pesticide Section. Adding an inspector position for residue sample/testing.

- **Program Specific Issues**

***Water Quality:*** Sampling was completed this year with no issues. No major hits for any POC's. No new pesticide compounds will be analyzed for this sampling season.

***Endangered Species:*** When requested, DDA provides pesticide analytical testing for wildlife cases involving endangered species.

***Obsolete Pesticide Disposal:*** Spring pickup was done, contractor worked well with DDA staff. No major issues during pickup. Due to the delay in previous years pickups, this pickup was one of our largest. Destruction notice was delayed significantly, but pesticides were finally destroyed in late July.

- **Enforcement Update** - DDA inspectors met all FY23 commitments and are on schedule with the FY24 commitments. Major issues this past season were unregistered employees, business license compliance, 2,4D drift on vineyards and other vegetable crops and 2,4D drift on residential areas. DDA has encountered a large increase in out of state companies not being compliant with the registered service employee rule. DDA has issued several civil penalties for these violations.

## **District of Columbia**

- **DOEE Pesticides Program Staff Updates** - Posted a vacancy for a program analyst/inspector. Hoping to fill the position before the end of the year. New Director Richard Jackson.
- **C&T** -The District will utilize Everblue for remote certification testing. Remote testing will be available in April. The DC C&T Plan was approved last February. We are still using DC Plants and hoping to digitize our application forms.
- **District Regulatory Changes** – Retracted proposed District Restricted Use Pesticides and will continue using the RUP list prescribed by EPA and update list accordingly. DOEE continues to support Fieldwatch/BeeCheck website, we had one bee kill in which an investigation was initiated.
- **Inspection and Enforcement** - Using Mi-forms to conduct digital inspections. All inspection forms are digitized. Received an internal audit from (Office of Enforcement and Environmental Justice (OEEJ-DOEE). All inspections planned during the first month of the FY to ensure that each ward is serviced equitably. Each inspector will maintain their inspection data on a centralized location and will digitize all previous inspection data. DC plants we will develop a template for users to input annual USE data.

## Maryland

- **Staff and Budget** - New Licensing, Certification and Training Coordinator started on March 22, 2023, and has dived in headfirst. Alexander Lehmann earned his BS and MS in Entomology from University of Nebraska and will be concentrating on the State Certification Plan as well as the QMP and working on updating manuals and exams. He will also be the main contact with Everblue, our on-line exam provider and will be tasked with updating our IPM in School manuals as well as putting together our annual IPM meeting. One new full-time Office Secretary (Alix Lindley) started in August 2023. She previously had been a Temp with us for the past year. We are also looking at moving our last remaining Temp to a Contractual Office Secretary position by November. We have been informed that budgets may be somewhat tight for the remainder of the fiscal year and moving forward. While Pesticide Regulation receives no State money, this still can have an impact on how we are allowed to spend. We have made a request to the Governor's office to raise our fees. We added a registered employee fee in 2006 but have not raised licensing, certification or permit fees since 2003 or earlier. We have also requested an additional fee for reprinting employee identification cards. All our fees are in Statute so it must go through the legislative process but if approved will provide us with much needed additional revenue. Unlike the rest of the states, we do not receive any pesticide registration money and we receive no State General Fund money. All we can do is request a fee increase to hopefully bolster our revenues.
- **Enforcement/Inspection Activities** - PRS Inspectors performed nearly 900 inspections exceeding FY 23 Commitments. New ESA requirements have not gone over well with the ag community. I am expecting possible enforcement challenges, as well (time will tell). BLT site is not overly convenient or user friendly. Expecting the new Rodenticide restrictions will also pose an enforcement challenge, at least initially. Received a bee kill complaint this past fiscal year (first one in about 10 years or so). Multiple pesticides found in the bees including DDT and Carbofuran. Still waiting for a few samples but do not expect to issue a violation to anyone based upon current investigation findings. These are difficult investigations as you have a beekeeper placing the colonies in an ag field where pesticides are actively applied (by ground and air).
- **Certification and Training** - C&T plan has been approved and published in the *Federal Register*. AAG's office is in the process of reviewing regulatory and statutory changes that will need to be made and submitted for review and approval by the legislature and or the Governor's Office. Nearly 800 recertification meetings approved this recert season. PRS staff were present at and/or provided updates at several in-person meetings. Few virtual. Having Alex on board has made things much smoother this year. As previously stated, we have signed an agreement with Everblue to provide online examinations at no cost to MDA (\$27.05 per exam paid by the applicant). In-person commercial and private examinations will still be offered, as usual, as we transition to online. The goal is not to necessarily eliminate in-person exams but to conduct them less frequently at fewer sites. We meet with UMD Extension yearly. While we have discussed the new C&T changes for Maryland at past recertification meetings (since the Rule was published), we have asked Extension to make this part of the required training they provide to growers and

applicators. UMD Extension also has a new PSEP Coordinator (finally). Niranjana Krishan joined UMD in January.

- **Pesticide Use Survey** - We have contracted with USDA's National Agricultural Statistics Service (NASS) for a 2022 Pesticide Use Survey. We have been doing these voluntary surveys since 1981. The most recent Survey was conducted in 2020 with a 46% response rate. We do offer full recertification credit for those that complete the survey. The 2022 survey should be out in early 2024.

## Pennsylvania

- **Enforcement**- We continue to face challenges with 25(b) drift enforcement and mosquito application drift. One particular mosquito company has had 6 complaints filed against them this year. Three have produced violations and three are still under investigation. We continue to hone in our PEIs from the feedback received by EPA. The PEI specific training conducted in Spring 2023 and the EPA workshop session has helped get everyone on the same page.
- **Statute/Regulatory** - C&T Plan: Certification Plan is approved. PDA will be starting the regulatory process. PA currently has two bills in committee we are opposing. One requires pesticide applicators notify registered apiary locations of upcoming applications, the setup is similar to our hypersensitivity notification requirement. The other prohibits the use of conventional herbicides on public grounds.
- **Water Quality (Ground Water Monitoring)** – A five-year joint funding agreement is in effect with USGS through December 2026 with continuing focus on sampling and analysis in the most vulnerable settings in PA. USGS samples 30 wells each season with additional wells repeated the following season at our request if higher levels of pesticides were detected. PDA has added to the five-year agreement sampling for PFAS at 10 sites each season since this is a chemical complex of major concern. We have received our 2022 water quality results for the Glaciated Low Plateau siliciclastic and Northeastern Glaciated surficial hydrogeologic settings in Northeast PA. There were detections for 5 out of 83 analyzed pesticides in Schedule 2447. Concentrations for 4 of the 5 detected pesticides were less than the highest minimum reporting level (MRL) associated with the constituent. For the remaining detected pesticide, the concentration was greater than the highest MRL in one or more wells. No detections exceeded PDA's take action level of 1/3 of EPA benchmarks. Metolachlor and its degradates were found at only 4 wells this past year constituting the highest pesticide detections of our sampling. USGS continues to use schedule 2447 for our samples for this season focusing on the Appalachian Mountain siliciclastic and Northeastern Glaciated surficial hydrogeologic settings in south central through Northeastern PA. We do not expect any pesticide detections to exceed the respective EPA maximum containment levels (MCLs) or lifetime health advisories (HALs) for the 2023 season. A subset of 12 wells were sampled for selected PFAS compounds. 2 wells had a detection of a single PFAS, with one detection of Perfluorobutanesulfonate (PFBSA) at 1.3 ng/L and one detection of Perfluorooctanesulfonate (PFOS) at 0.7 ng/L.

- **Worker Protection Standard** - PDA continues to contract with the Pennsylvania Office of Rural Health (PORH) to provide WPS compliance assistance to all Pennsylvania growers. The PORH has completed updating the WPS DVDs and have now moved to putting on flash drives. Commodities targeted in the training videos are greenhouse, nursery, orchard, vegetable, and mushroom. Any state, PSEP, professional association, or EPA funded organization can request the files to produce their own videos to distribute as needed.
- **Miscellaneous** - PDA Bureau of Plant Industry and Food Safety has been working with the SAFHER group to modernize our PaPlants database that houses all our pesticide applicator, registration and enforcement information, as well as other programs. We've been selected to pilot our feed program with SAFHER and have had discussions as to other program needs.

## Virginia

- **Legislative**- With the approval of Virginia's State Certification Plan, VDACS will be submitting a proposal for consideration for the 2024 General Assembly Sessions to grant VDACS the right to enter any public or private premises where it is necessary to conduct routine inspections and investigations of allegations related to compliance with the Pesticide Control Act (Act) and if refused, warrant authority.
- **Regulatory** - With the approval of Virginia's State Certification Plan, VDACS will be requesting permission from the Board of Agriculture and Consumer Services at its December 2023 meeting to initiate the rulemaking process to amend both **Chapter 680** Regulations Governing Licensing of Pesticide Businesses Operating under Authority of the Virginia Pesticide Control Act and **Chapter 685** Regulations Governing Pesticide Applicator Certification under Authority of Virginia Pesticide Control Act.
- **Personnel** - The Office of Pesticide Services (OPS) has completed a reorganization of both its Enforcement & Field Operations (E&FO) and Certification, Licensing, Registration and Training (CLRT) Units. For E&FO, VDACS has divided the state into 2 Regions with one Regional Supervisor and 5 Pesticide Investigators. In addition to a couple of promotions we have been able to hire three new investigators. For CLRT, VDACS has added a Lead Coordinator for the Product Registration & Business Licensing Programs and reclassified an existing position to serve as the Registration Compliance Specialist resulting in 3 coordinator positions (the new position plus the Worker Safety Coordinator which includes Certification & WPS; and the Recertification & Training Coordinator). The additional staffing will better balance the workloads of each position. These two positions, in addition to the vacant Pesticide Investigator position are anticipated to be filled by the end of the calendar year.
- **Ongoing/Future Initiatives**—VDACS has fully implemented a remote testing option for all pesticide applicator exams. The option is in addition to the current testing options available including the Department of Motor Vehicles and in person testing.
- **Enforcement and Compliance** - For FY23, Field Staff conducted 1,541 routine inspections and related activities and initiated 94 investigations, including complaints,

incidents, accidents, and related activities throughout Virginia. Due to staff vacancies in compliance program, no enforcement actions were taken during Q1 & Q2 of the of FY23. At end of year, VDACS assessed 43 civil penalties totaling \$14,080; 8 letters of caution; and 1 other non-monetary action. These were contained within 40 unique cases.

## **West Virginia**

- **Personnel** – Carrie Summers filled the READ Director position. Dr. Peggy Powell recently retired from the Certification and Compliance Assistance Supervisor position and Jennifer Shively will fill the position. Devin Johnston will fill the Environmental Programs Specialist position. Caleb Rumble, Pesticide Regulatory Officer, recently left the Department at the end of September. We have three vacant positions-Pesticide Regulatory Officer (Beckley, Morgantown), and Certification and Compliance Assistance Specialist.
- **WPS Outreach/Ag Safety Days**- WPS outreach continues statewide. Ag Health and Safety Coordinator has been training and contacting growers to offer site visits to determine compliance and to provide all WPS required training including respiratory protection and farm equipment safety training. An Ag Safety Days event hosted on February 22<sup>nd</sup>-24<sup>th</sup> with 84 total attendees; 12 Handlers and 32 workers were trained on WPS. Ag Health and Safety Coordinator is also becoming a CPR/First Aid/AED instructor and will also be instructing at an upcoming Farm Safety Days event in May.
- **WV Plants** - Renewal season is November 1- April 01 for Pesticide Business/Dealer/Applicator/Technician licensing. The renewal season for Product Registration is year-round. Several enhancements have been requested and are awaiting approval. New product registration can now be paid online if they already have products registered in WV. We are adding ACH option to registration and licensing to encourage use of online registration and renewal. Avoids costly credit card fees.
- **Legislative Update**-2 rules out for comment as a result of the revised CT Plan. No comments received.

**Next Meeting** – The Spring Pre-SFIREG Meeting is scheduled for March 18-20, 2024. The meeting will be held at the EPA Region 3 office in Philadelphia, Pennsylvania.

Respectfully submitted,



Rob Hofstetter, SFIREG Representative  
EPA Region 3