

SFIREG: REGION 10 REPORT

PRE-SFIREG MEETING

Date:	November 20 th – 21 st , 2024
Location:	EPA Region 10 Office, Park Place Building 1200 Sixth Avenue, Seattle WA
Prepared By:	Brian Hurzeler (ISDA) – Region 10 SFIREG Representative

The Region 10 pre-SFIREG meeting was held in person at the EPA Region 10 Office as part of the Region 10 Pesticide Directors Meeting, with an online link option for those that chose to attend virtually.

IN ATTENDANCE

- [Alaska \(ADEC\)](#): Bob Blankenburg, Karin Hendrickson.
- [Idaho \(ISDA\)](#): Lloyd Knight, Brian Slabaugh, Elizabeth Palmateer, Brian Hurzeler, Mark Klimok.
- [Oregon \(ODA\)](#): Gilbert Uribe, Colton Bond, Kathryn Rifenburg, Toby Primbs, Brittney Owen and Andrea Sonnen.
- [Oregon State University \(OSU\)](#): Kaci Buhl.
- [Oregon OSHA](#): Penny Wolf-McCormack, Theodore (Ted) Bunch.
- [Washington \(WSDA\)](#): Kelly McLain, Timothy Stein, Daleena Blair, Gary Bahr, Abigail Nickelson, Margaret Drennan, Brent Perry, Tina Zimmerman, and Ofelio Borges.
- [Washington State University \(WSU\)](#): Wendy Sue Wheeler, Adrienne Burke.
- [National Pesticide Information Center \(NPIC\)](#): Serhan Mermer, Kei Lin Chang.
- [EPA \(Region 10\)](#): Stacy Murphy, Justin Spenillo, Nick Hurwit, Bethany Plewe, Marie Hallinen, Linda Liu, Martin Lovato, Dirk Helder, Nick Peak and Chad Schulze.
- [EPA \(OPP\)](#): Anne Overstreet, Kelly Tindall, Fank Farruggia, Natalie Bray, Kaitlin Picone, Eric Meiderhoff, Jessica Bailey, and Jose Gayoso.
- [Coeur d'Alene Tribe](#): Eric Gjevre.

MEETING TOPICS

- Water Quality (WQ) Updates
- Worker Protection Standard
- NPIC Updates
- Certification & Training (C&T)
- Enforcement
- Pesticide Safety Education Programs (PSEPS)
- Update on EPA's Registration Review Activities
- Endangered Species Activities

TOPIC (1):

Water Quality Activities - The Environmental Quality Issues (EQI) Working Group has been considering ways for states to share information on water quality activities (such as pesticides of concern, pesticides detections, and mitigation efforts for pesticides in water) and findings among SLAs, both regionally and nationally.

STATE RESPONSES/CONCERNS:

Question 1: Do SLAs in your region currently share information on water quality issues, and, if so, what is the mechanism for that information sharing?

ODA – Yes, through the Pesticide Stewardship Partnership Program (PSP) at ODA, and similar programs meet within region 10 to share and discuss progress.

ADEC - Region 10 has an annual meeting to discuss water quality and pesticides. Alaska has previously attended these meetings when possible.

ISDA – Informal information sharing with IDEQ and IDWR.

Question 2: Would SLAs find it useful to have a mechanism for sharing reports on water quality activities?

ODA – Yes. It would be helpful to identify trends occurring at regional and/or national levels.

ADEC - Alaska would not, as we are not geographically connected to other states and because we do not test for pesticides in water and thus do not have any pesticide detections.

ISDA – Yes.

Question 3: One potential advantage of reporting on pesticide detections in water would be as a measure of the effectiveness of the ESA Strategy mitigations. Is your current reporting on water quality activities capable of capturing that information?

ODA – No, and it would be difficult to establish protocols that adequately addressed those questions given existing expertise, funding, and personnel.

ADEC - This is not applicable for Alaska currently, as we do not test for pesticides in water.

ISDA – Idaho sampling is related to groundwater. It would be difficult to establish protocols that can address those questions given existing expertise, funding, and personnel.

Question 4: In order to facilitate the development of an information sharing process, please ask SLAs to identify the person or persons in their state that could be contacted for information.

ODA – Kathryn Rifenburg

ISDA – Tony Noe.

TOPIC 2:

C&T Plan Implementation: Information on the status of implementation of approved C&T plans is useful in on-going discussions with EPA.

STATE RESPONSES/CONCERNS:

Question 1: What is the experience so far with manual and exam development?

ODA – It requires a lot of work and bandwidth to do it right.

ADEC – Alaska completed this process June 2022.

ISDA – Idaho currently is open to ideas to make resources available to industry at minimal cost.

Question 2: Have SLAs experienced any problems or delays in implementation?

ODA – Yes. It has been more difficult to coordinate, share, and align with changes in other states than initially hoped. Staffing of SLA and PSEP programs continues to be a barrier, and ESA strategy implementation was not something programs anticipated having to deal with simultaneously with C&T plan implementation.

ADEC – Alaska has not had any issues with implementation.

ISDA – Communication to industry as related to rules.

Question 3: Have you made any changes in how you collaborate with PSEPs in order to implement the C&T plan?

ODA – Oregon was already working closely with OSU and continue to do so.

ADEC – Alaska's PSEP only plays a limited role in C&T implementation, they offer 1 initial training and 1 CEU class per year. This has not changed with the implementation of the new C&T plan.

TOPIC 3:

Web-Distributing Labeling: EPA recently registered a product with a portion of the label in a digital accessible format. Here is the link to that product:

(https://www3.epa.gov/pesticides/chem_search/pp1s/007969-00336-20240830.pdf)

STATE RESPONSES/CONCERNS:

Question 1: Do SLAs in the Region have any experience with digital labeling such as this?

WSDA – The WSDA Pesticide Registration Program is aware of web-distributed labeling (WDL) in general, but this is the first EPA-approved label we're aware of that references WDL. Washington currently has no concrete state-level plan in place because we have not yet seen a product with a WDL market label to help us to develop a review process.

ADEC – We have not had any experience with web-distributed labeling.

ISDA – No issues as long as it meets federal standards.

Question 2: Are there any questions or issues that need to be discussed regarding this form of labeling?

WSDA –

1. What are EPA's current criteria and expectations for WDL?
 - a. Does WDL bypass state review and approval of product labels?
 - b. WDL that requires consistency with the most recent master label, has potential to invalidate or supersede market/container labels in channels of trade. This has implications for both registration and enforcement.
 - c. Will EPA require submission of amended labels via notification? If not, how are SLAs expected to confirm that WDL has been added to the master label?
2. Specific questions/concerns for the example Nealta product label:
 - a. Nealta master label provided as an example omits instructions specified in PRN 2014-1 on how to access WDL, including the unique identifier, the release for shipment date (or placeholder text), the format of that information, and how to locate that information on the label. Should SLAs expect to see those items on the market label? Will master labels include those items going forward?
 - b. The Nealta master label further states that the WDL is approved by US EPA and state lead agencies, which may falsely or prematurely imply approval of rendered output at the state level.
3. What WDL guidance should SLAs refer to and does it differ from previously available references (e.g., PRN 2014-1, [2017 EPA presentation](#) to AAPCO, [EPA WDL website](#))?
4. For states that do not review and approve EPA master labels for registration purposes, WDL must be available for the product/label registered in the state (which may differ from the master label).

5. What are the expectations for adoption of WDL?
 - a. Is it expected to be only for certain types of products, or will it eventually apply to all products?
 - b. What is the anticipated timeline for adoption? Does EPA anticipate approving many WDL labels in the near future?
 - c. Is Nealta the first WDL label that EPA has approved?
6. Current guidance implies that WDL is expected to match the current EPA master label, which may or may not correspond with actual distributed product labels. How will this be addressed?
 - a. If a newer master label exists, does that invalidate current container labeling if the container label has WDL access? This would seem to conflict with guidance that allows the user to choose to follow any one complete label version in case of conflict.
 - b. What constitutes a **unique identifier** on a product label (NOT the QR code) and what label changes would require a new unique identifier for a product label?
 - c. If multiple label versions with different unique identifiers are in the marketplace, will the registrant be required to maintain multiple WDL versions to match, or will all unique IDs direct users ONLY to the most recent master label version?
7. What does EPA consider 'state approval' (in the context of WDL) and how should states address concerns with ABNs, sublabels, and actual market labels?
 - a. Is the WDL accessed required to be consistent with the most current EPA master label OR the most current approved state/market label? - These may **not** be the same! For example, subsets of use sites on disinfectant labels usually differ by distributor. For another example, Washington did not accept a new label that included incorrect application rates for certain crops, but did accept a sublabel for one crop.
8. How does WDL address discrepancies between market and master labels, including allowable differences such as adjusted use rates (within an approved range), target pests (removed not added), crops/use sites (removed not added)?
9. There is considerable potential for label version mismatches.
 - a. Master label-driven WDL has inherent potential conflicts with many container labels from Day 1. For example:
 - i. ABNs
 - ii. Sublabels
 - iii. Distributor labels
 - b. Do other states formally review revised labels for acceptance prior to allowing distribution and use?
 - i. If yes, what will constitute 'state approval' of a revised label in the context of WDL?
 - ii. What are the concerns around lag time in submission and approval of revised labels? Not all states receive or approve the same version of a revised label at the same time, and not all states formally approve revised labels.
 1. Example: WA did not accept a revised label that omitted regional restrictions, but did allow continued distribution under a previously accepted label version.

- c. For states with additional restrictions, unreviewed WDL may bypass state restrictions and requirements including state restricted use pesticides, state use-restricted pesticides, dealer licensing, recordkeeping, etc.
 - i. If a product label requires retention of the label for records and state law does NOT require label retention, which is enforceable by the state?

ODA – The container label for Nealta Miticide on file with ODA (approved 5/14/2024) does not have a QR code.

However, we had an issue with a label QR code in the past. In 2021, we received an application from a distributor to register a disinfectant whose container label had a QR code. While the container label had a subset of uses from the EPA label, the QR code took you to a website that was just a duplicate of the entire EPA label. The title of the webpage was just "EPA Label;" the applicant did not even bother to use their product name. The webpage included the Emerging Viral Pathogens Claim that you see on EPA labels, but that is not supposed to appear on container labels. When reviewing the EPA label, we were surprised that there was an option to use a QR code, but that there were no restrictions or limitations on how the QR code could be used or what information could appear on the QR code-linked site.

The applicant was essentially using a QR code to use the entire EPA label (including the long list of marketing claims) without having to bother with figuring out how to fit it all on a label. If applicants just put some uses on the container label, but then use a QR code to direct users to the entire EPA label, then there isn't much of a point in reviewing container labels.

This product never ended up being registered. For more information, see 2021 Basecamp thread "QR Code on Virus Guard (EPA Reg. No. 85134-1-97764)" and the current EPA label for 85134-1, just above the Storage and Disposal on PDF p. 9.

REQUEST: In this situation, it would have been helpful if there were Note(s) to Reviewer on the EPA label imposing parameters on what must at least be on the container label vs. the QR code-linked site, if there are any restrictions on what can't appear on the site without also appearing on the label, anything on how the information is to be presented, etc. Otherwise, if the EPA label just permits a QR code generally, it is hard for us to push back on a registration application if we have concerns with what appears on the QR code-linked site.

In addition, ODA is concerned of the shift to internet-based only information. Large segments of Oregon, especially in rural farmland, have limited to no internet access. Often, these same segments of the state lack resources to develop the needed internet infrastructure. In addition, some communities and individuals may have extensive experience in agriculture, pesticide applications, and reading labels, but lack the background and experience with technology. Required regulations dependent upon high-speed internet access on a computer (especially when not mobile device friendly) creates an equity concern for these communities, as they would not have equal access to the material that would allow them to comply with the regulations, when compared to those with high-speed internet access and a computer. In other words, without the internet infrastructure these communities are at a disadvantage to ensure they are able to comply with the new regulations. New systems and infrastructure need to be considered and put in place to facilitate access, such as mobile-friendly interfaces, low bandwidth-friendly files to accommodate areas with low bandwidth, and functional support for individuals for whom internet access is not feasible.

ADEC – Not all areas of Alaska have cell service or easily accessible internet. The extent of this issue may be somewhat unique to Alaska, but we have heard of similar problems in other rural areas in the United States. This type of labeling will be a challenge for us.

ISDA – WDLs in lieu of printed labels “Spanish”. How will EPA address accessibility issues. If a Spanish speaking employee needs access to a label, how are they able to be WPS compliant if they do not have internet access?

TOPIC 4:

AEZ Rule – On October 2, 2024, EPA announced adoption of the final Application Exclusion Zone rule, which will reinstate elements of the proposed 2015 AEZ rule. The rule will become effective 60 days from the publication of the Federal Register notice, which was not published at the time of the announcement. The final rule is the version posted in 2023 and available at: <https://www.epa.gov/newsreleases/epa-proposes-rule-protect-farmworkers-and-pesticide-handlers-exposures>. EPA stated in their announcement that they will release interim guidance by the end of October to support the regulated community in complying with the new rule and will accept feedback on how to improve the guidance after its release.

STATE RESPONSES/CONCERNS:

Question 1: What questions do SLAs have about the provisions of the final AEZ rule?

No state responses

Question 2: What resources do SLAs need to document compliance with this rule?

ADEC – None. Due to limited agriculture and pesticide use patterns in Alaska, this rule will apply very rarely.

Question 3: Do SLAs need any other educational materials regarding implementation of this rule?

No state responses

TOPIC 5:

ESA Workplan and Strategy Implementation: The Herbicide Strategy was finalized in August and the Draft Insecticide Strategy published in September, along with a Vulnerable Species Action Plan. The Endangered Species Act Implementation (ESI) Working Committee has been established and has begun work on issues related to the implementation of these strategies. Training for SLAs and pesticide users on this issue is now a pressing need.

STATE RESPONSES/CONCERNS:

Question 1: What efforts are SLAs making regarding training for inspectors on the ESA Strategy and documentation of compliance?

ADEC – Very few of the strategies apply in Alaska. We will address on a case-by-case basis if/when relevant.

ISDA – We've conducted BLT training for ISDA staff and have additional training scheduled for 2025.

Question 2: What efforts are SLAs making for education and training of pesticide users, certified crop advisors, technical service providers, and others regarding implementation of the ESA Strategies?

ODA – In the works. ODA is participating in a regional effort with WSDA to get feedback from interested and affected parties to coordinate and address needs in a manner that best suits them.

ADEC – None at this time for Alaska.

ISDA – Preliminary stages of outreach training for industry in 2025.

Question 3: Are there specific information needs that SFIREG or our regulatory partners can address that will aid in this process?

ODA – Continue requesting consistency in messaging and implementation. Many groups are involved in outreach, and it is critical that everyone is delivering the same message, especially when it comes to compliance.

ISDA – Any resources or materials developed by EPA to assist in training industry in an effective manner.

TOPIC 6:

Bulletins Live Two (BLT)– EPA will be relying on BLT to implement Pesticide Use Limitation Areas (PULAs) for the ESA Workplan Implementation. The Endangered Species Act Implementation (ESI) Working Committee has been actively working with EPA to identify needed improvements in this system to make it useful for SLAs in compliance activities.

STATE RESPONSES/CONCERNS:

Question 1: Would SLAs find a list-serve that provided notifications of changes and additions to Bulletins useful?

WSDA – Yes, the WSDA Pesticide Registration Program would find a list-serve that provided notifications of changes and additions to Bulletins useful.

Please also consider an online listing, similar to the Upcoming Registration Review Actions list, that lists basic data for active PULAs, including PULA ID number, Event name, AI, state, and month. While BL2 provides end-use data for a specific product, location, and date, this additional listing would allow SLAs and others to better track, educate, and inform at a statewide or regional level. The list format should allow some basic search, sort, and filter options. For example, filtering or searching for PULA ID 87 and State = Washington would return AI = cyantraniliprole, Event name = Cyantraniliprole 2023, and months = All (or Jan-Feb-Mar-etc. depending on data format).

ODA – Yes.

ADEC – Yes.

ISDA – Yes. An addition helpful item would be able to look at historical bulletins as related to possible enforcement actions.

Question 2: Are SLAs working on any methods of communicating Bulletins to communities that lack reliable internet access?

ODA – ODA Pesticides Program has been providing information/ articles through our biannual newsletter about BLT. Our newsletter is currently in print form and mailed. Although ODA is concerned of the shift to internet-based only information. Large segments of Oregon, especially in rural farmland, have limited to no internet access. Often, these same segments of the state lack resources to develop the needed internet infrastructure. In addition, some communities and individuals may have extensive experience in agriculture, pesticide applications, and reading labels, but lack the background and experience with technology. Required regulations dependent upon high-speed internet access on a computer (especially when not mobile device friendly) creates an equity concern for these communities, as they would not have equal access to the material that would allow them to comply with the regulations, when compared to those with high-speed internet access and a computer. In other words, without the internet infrastructure these communities are at a disadvantage to ensure they are able to comply with the new regulations. New systems and infrastructure need to be considered and put in place to facilitate access, such as mobile-friendly interfaces, low bandwidth-friendly files to accommodate areas with low bandwidth, and functional support for individuals for whom internet access is not feasible.

EPA should also encourage the registrants of these products to make the Bulletins for their products accessible to communities that lack reliable internet access.

ADEC – No. For Alaska, currently, our only bulletins currently apply to a narrow coastal perimeter where pesticide use does not occur.

ISDA – Not currently but exploring options for industry. If there is an option for obtaining information from a listserv, we would be able to redistribute upon request. Concerns about the ability to inform all individuals in industry that the BLT's would apply to.

TOPIC 7:

Pesticide Registration Decisions: EPA has an active schedule for pesticide registration and re-registration decisions. The schedule is available at the link below and can be exported to a searchable excel spreadsheet.

<https://www.epa.gov/pesticide-reevaluation/upcoming-registration-review-actions>

STATE RESPONSES/CONCERNS:

Question 1: Are there any pending or upcoming registration decisions that are of particular interest or importance to your state?

ODA – The Proposed Interim Registration Review Decisions (PIDs) for some active ingredients, if implemented as Interim Decisions (IDs), would require some Oregon SLNs to be cancelled (e.g., acephate, thiram, ziram). Can EPA please clarify the following:

- Let's say an ID is published with the requirement that a use for that active ingredient be deleted, and that use is only available via an SLN registration. Is the SLN registration to be cancelled within 60 days of the publication of the ID (similar to how amended labels must be submitted to EPA within 60 days)?

Question 2: Any of these that you request that we put on the agenda at the SFIREG meeting?

WSDA – Yes, the WSDA Pesticide Registration Program would like to request putting rodenticides and neonicotinoids on the agenda for the full SFIREG meeting.

TOPIC 8:

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

STATE RESPONSES/CONCERNS:

ODA – Issue: SLN Expiration Dates

EPA needs to clarify whether there is an “existing stocks” policy for SLNs that are cancelled before their labeled expiration date.

Expiration dates are not a requirement of 40 CFR 162. However, EPA has indicated that they want expiration dates to appear on all SLN labels. SLN labels bear the restriction “For Use and Distribution in [state].” Most SLN labels with an expiration date phrase the statement like “This label is valid until [expiration date] or until otherwise amended, withdrawn, suspended, or cancelled.” Based on this statement, once an SLN is cancelled, it is no longer valid, and therefore may no longer be used or distributed. However, discussions with other states have seemed to suggest that some states allow the continued use of a cancelled SLN until the label expires.

Similarly, conversations with some states seems to suggest that they allow growers to use the previously approved version of the SLN label if the label is amended before it expires. Again, if a label is “valid until otherwise amended,” then my interpretation is that the prior version must no longer be used once the updated version is approved. If this interpretation is incorrect, this has consequences for the enforcement of mitigation measures required by Interim Decisions, where an amended SLN label may be stamped by EPA before the SLN's labeled expiration date.

EPA's Guidance on FIFRA 24(c) Registrations is also confusing in regards to this topic. For example, Q & A 21 (pasted below).

If an SLN is expired, then based on the labeled expiration date, it is no longer valid. If this is the case, why does this answer seem to suggest that the SLN could continue to be used? Furthermore, after 90 days, an SLN is a federal registration. If this is the case, should the determination of an existing stocks policy not be EPA's responsibility? The first sentence of this response seems to indicate a state can determine an existing stocks policy for a federal registration. The third sentence seems to indicate that this is EPA's responsibility.

Q & A 22 is similarly confusing (see screenshot below) – if EPA wants to permit use of an SLN label even if it is expired, then what is the purpose of an expiration date on an SLN

label? They are not a requirement in 40 CFR 162, and it costs SLAs substantial time and resources to “renew” their SLNs on an effectively arbitrary schedule (every five years).

SLAs need clear guidance from EPA on the enforcement implications of SLN expiration dates, particularly in the context of use of existing stocks, use of old versions of SLN labels that have not expired, and use of SLNs that are cancelled before their labeled expiration date. Finally, on what information did EPA base that claim – “To date this has been a rare occurrence.” Oregon’s longstanding approach has been that expired SLN labels and labels of SLNs that have been cancelled both cannot be used. Otherwise, an expiration date is purposeless.

21. Issue: What should be done with old, expired §24(c) registrations? Some products were only used with §24(c) product labeling, their §3 usages being made obsolete by other better products.

Response: A state may choose to provide a period of use for existing stocks or may choose to prohibit the use of existing stock. However, the product would continue to be registered with EPA unless the fees were not paid or other appropriate action under §6 occurred. If EPA cancels or suspends the product, use will be permitted, if at all, in accordance with any existing stocks order issued by the Agency.

ADEC – Alaska does not have any new or ongoing issues for consideration for either White Papers or Issue Papers.