

Region 10 Pre-SFIREG Meeting Report

November 14-15, 2018

In conjunction with the Annual Region 10 Pesticide Directors Meeting

Prepared by: Kelle Davis (WA)—Region 10 SFIREG Representative

Present were:

- Oregon--Dale Mitchell, Rose Kachadoorian, Mike Odenthal, Kirk Cook (phone), Garnet Cooke (Oregon OSHA), Kaci Buhl (PSEP), Amy Hallman (NPIC)
- Alaska-- Bob Blankenburg
- Idaho—Vic Mason, Kevin Kostka, Ronda Hirnyck (PSEP)
- Washington—Robin Schoen-Nessa, Joel Kangiser, Kelle Davis, Gary Bahr, Carol Black (PSEP), Wendy Sue Wheeler (PSEP)
- Tribes-- Eric Gjevre (Coeur d'Alene), Joe Herrera (Yakama), Holly Thompson Duffy (Indian Health Service)
- EPA – Chad Schulze, Derrick Terada, Linda Liu (phone), Bethany Plewe, Nicholas Hurwit, Dirk Helder, Andrew Landry

State Briefing and Hot Topics

Alaska—

- Certification and Training modifications to law and rule have been completed for adherence to Federal plan. License categories were added. State plan is ready to be submitted as soon as the template/model is released.
- Still dealing with aquatic invasive species—Elodea waterweed and invasive northern pike in the south central area of Alaska. Concerns with them taking over salmon habitat.
- Alaska requires permits to apply pesticides to water, they are trying to get regulations in place to issue general permits. State rules have gotten in the way of regulation and have slowed down response times. A general permit would give greater flexibility and would help streamline response to these invasive species—essentially the same pesticide & same environment. Would simplify work for the department (won't have to issue multiple permits for the same invasive species).

Oregon--

- Compliance staff broke records with over 700 investigations conducted, mostly due to cannabis issues.
- Initiated Emergency Rulemaking to prohibit the application of aminocyclopyrachlor (Perspective, Method 240SL, Streamline, Viewpoint) on rights-of-way due to death and decline of valuable tree species that are/were growing near locations where the herbicide was applied. 1454 trees have been identified as dead or dying along the picturesque Highway 20 corridor near Sisters, Oregon: Some of these trees are 300 years old. Concern that these incidents have not been reported to EPA via 6(a)(2) by registrant. Have also identified 4-5 other areas within the state that are affected. Also of concern is what to do with the dead trees once removed. Limbs cannot be chipped for compost; branches have to be prevented from getting back into the environment.
- Working on the state plan for the new C&T rules, adding new exams, working towards increasing reciprocity with other states.
- Hoping to update the 24c SLN guidance and bring the draft document to full SFIREG for comments.

Washington—

- Natural Resource Assessment Section (NRAS) is working toward a "Pesticide Stewardship Program" for water quality protection with a concept paper going before the legislature for funding. The program will be important as the BiOps are released, and will give states direction on how to implement Reasonable and Prudent Alternatives (RPA's) and Reasonable and Prudent Measures (RPM's), as well as possible label changes for affected pesticides.

- Working on the state's C&T plan development. Attended a Region 10 meeting in Hood River, OR with other Region 10 states to brainstorm and talk about issues related to the new rules.
- Exploring contracting out pesticide licensing exams through a third party vendor. This necessitates increasing exam fees. Already have started the rule change process and will be conducting a small business economic impact statement to support the rule change.
- Technical Services and Education program has been hugely successful. The program needs more trainers, and will be seeking additional funding during this legislative session. The program has had to turn down sponsors for training sessions because of lack of staff. The trainings are now booked out until mid-2021.
- Washington State will be hosting the 2019 PIRT training course May 14-17, 2019 in the Tri-Cities area and will be coordinated by WSU. The training will focus on drift and will involve field trips to agricultural areas as well as the Prosser Research Station, looking at new technologies, boom and air blast sprayers and the use of drones.
- Had a lot issues with public outcry with aerial forestry applications of glyphosate, which coincided about the same time as the California lawsuit on glyphosate. Out of Dept. of Ag's jurisdiction, but consumed a lot of time.

Idaho--

- No major compliance issues, seeing an influx of people moving into Idaho, especially the Boise area. Having some conflicts with aerial applications and urban areas because of development of former Ag ground.
- Changing pesticide exam registration process—licensees' will now signup for and pre-pay online. The hope is that it will help with no-shows and increase the pass rates on exams. Also looking into creating online module training.

Tribes--

- Eric Gjevre (Coeur d'Alene/Circuit Rider)—Waiting for the C&T rules to be drafted at the federal level. Tribes are a federal entity, and the tribes he represents do not have their own C&T program. None of the tribes have their own testing criteria, so they have to rely on an underlying state program. Worked on an enforcement case involving over 500 containers of empty but unrinsed pesticide containers that were dumped by an aerial applicator.
- Holly Thompson Duffy (Indian Health Service)--Environmental Health Program is being integrated into the Health Board. Bedbugs are the number one issue in Indian country in casinos, hotels, child care centers and schools. Children's Environmental Health Project that was put on hold for 2 years is being restarted in spring 2019. They will begin environmental sampling for allergens and PCB's, and doing outreach to 39 childcare facilities in three states.

Group Discussion on Other Issues

Unmanned Aerial Vehicles

- Still an issue for Region 10 states.
- Received conflicting information from EPA on label interpretations, from "boom length is irrelevant" to "boom length is a restriction," to "drones can be used on any product that doesn't prohibit them."
- Traditional aerial applicators are not as concerned about legitimate drone applications, as they are servicing smaller niche applications, and are licensed by FAA—they are more concerned about the "fly-by-nighters."
- Drone companies need to work directly with registrants to create labels that have clear UAV directions, instead of trying to twist existing labels to suit their application.
- Washington state has a second applicator licensed for drones.

Biostimulants

- Still an issue for region 10 states.
- Washington State's Eddie Simons is on a national Biostimulant Workgroup. The workgroup is composed of about 40 members from industry, national, and regulatory sectors. Industry goals are to create a universal definition

for “Biostimulant,” identify or create a process for market entry, clarify claims associated with the term “Biostimulant,” have one label for all of the US, and have uniform enforcement of regulation at the state and federal levels.

- Regulatory entities believe that industry is attempting to define their products out of EPA authority. However, many of these products meet the federal definition of a pesticide. AAPFCO, AAPCO, and EPA seem to be the only ones speaking up about the issues with the products and that a regulatory structure is in place for most of them.
- Industry is supporting a ‘voluntary’ process similar to the Organic Program. There would not be any regulatory authority by USDA-AMS.
- EPA should regulate those products that contain known pesticide ingredients, or that make pesticidal claims, or if the registrant has constructive knowledge that the product is functioning as a pesticide.
- EPA is hopefully releasing a Biostimulant policy in the next 90-180 days
- States asked if EPA could issue a warning letter that the state could use as part of the stop sale, use or removal order for unregistered pesticides found in the marketplace. This would help bolster the states’ regulatory action.

Devices

- Companies in NW area marketing large machines that produce a pesticidal substance (carbon monoxide, sulfur dioxide, ozone) to kill rodents, pests, bacteria, etc. Companies are marketing to farmers and schools.
- EPA determined that if the pesticide and device are sold together it is a pesticide and must be registered. If the device is sold separately, it does not need to be registered (but must have EPA establishment number and cannot make false or misleading claims)
- Machines can only be used “on site”—but what is “On-site”? If a farmer has two parcels of land that are not adjoining, can he use the device on both pieces or does he need to purchase another device?

Forestry Applications

- Special interest groups are watching for notifications of potential application to forested areas and are objecting to the applications. They are contacting legislators, state lead agencies to complain and prevent the applications from happening.

Region 10 Water Quality Meeting

- Only region that has an annual meeting on pesticide and water quality.
- Discuss sampling and pesticides of interest and pesticides of concern.
- Region 10 plus California working together on regional water quality issues.

Pollinator Protection

- Oregon is performing lots of outreach to communities about pollinator protection on both a local and state level. Targeting message to Spanish speaking individuals.
- Idaho completed their pollinator protection plan in 2016, an IPM guide for bee keepers; does not include regulatory language. Compliance staff is also training on pollinator protection to educate stakeholders.
- Washington has completed two pollinator protection plans, one is a general guide completed in 2018, and the other is targeted specifically for pollinators in alfalfa seed production.
- AAPCO/SLA’s have developed a survey, but is not yet finalized.

Certification and Training Rules

- All Region 10 states C&T coordinators & PSEPs met in Hood River Oregon in October to discuss the C&T Rules. Reviewed different parts of the new rules and discussed how each state plans to implement the changes to meet the requirements of the new rule.
- However, states are waiting for key C&T implementation support materials (e.g., C&T State Plan Q’s & A’s (guidance), State plan outline/template, to support C&T rule implementation and state plan revision efforts.

- Alaska has already made changes their laws/rules that meet the requirements of the rule and is waiting for the template before submitting their state plan.

Cannabis

- Alaska--still experiencing growing pains with legalization of marijuana. They do not have any residue testing requirements. Growers have to list the pesticides they intend to use in the production of marijuana and the Department either approves or disapproves the plan. They have not conducted any investigations or sampling.
- Washington—Received funding from the Liquor and Cannabis Board (LCB) to fund a cannabis coordinator and a new pesticide compliance investigator. Organic Program is working toward organic standards in marijuana production—can't be called "organic"; may be called "certified." Action Levels that were adopted by LCB are considered action levels for enforcement, but many are confusing them with tolerance levels. Compliance program will start routine inspections next year.
- Oregon—has been doing a lot of sampling and inspections, and have had quite a few violations. They have developed a Marijuana Compliance Assistance Program (MCAP) to help producers get into compliance. The voluntary program is part of a consent agreement where the producer attends training and passes license testing in order to reduce the regulatory action against the producer. Of the 289 referred to ODA for pesticide sampling failures, 194 have completed the MCAP, 6 have refused and are undergoing formal regulatory action, and 66 are still open.