

STATE FIFRA ISSUES RESEARCH & EVALUATION GROUP (SFIREG)
JOINT MEETING MINUTES OF THE PESTICIDE OPERATIONS AND MANAGEMENT
(POM) &
ENVIRONMENTAL QUALITY ISSUES (EQI) COMMITTEES
April 8-19, 2019
U.S. EPA, POTOMAC YARDS, CRYSTAL CITY, VA

Called by: Timothy Drake, SC, POM Chairperson & Gary Bahr, WA, EQI Chairperson
Minutes by: Amy Sullivan, AAPCO Executive Secretary

Monday April 8, 2019

AAPCO, SFIREG, and NASDA Updates

*Rose Kachadoorian, OR, AAPCO President; Liza Fleeson Trossbach, VA, SFIREG Chairperson;
Aline DeLucia, NASDA, Associate Director of Public Policy*

AAPCO: Kachadoorian began by summarizing recent AAPCO activities, including:

- The December 2018 letter to EPA regarding C&T;
- March's Annual Spring Meeting, which was very well attended and valuable for the attendees, as well as the dates for the next Annual Spring Meeting, which are March 8-11, 2020;
- April's letter to EPA regarding the 24(c) language on their website, as well as NASDA's similar letter, both expressing concern that the agency is attempting to erode state authority;
- The formation of AAPCO's Technology Workgroup, which will be chaired by Robby Personette, WI;
- And development of an effort to have SFIREG work more closely on label language improvement with EPA.

Robin Schoen-Nessa, WA brought up the notice she had received saying that their EPA grant funding would be reduced by about \$20,000 and asked if others had received something similar from the agency? Kachadoorian suggested states should follow up with their project officers to determine if they have similar reductions, and said that she would follow up with EPA to better understand what is happening.

SFIREG: Fleeson Trossbach began by recognizing Tim Drake, SC, as this is his last meeting as POM Chair. She thanked him and all of the committee members for their hard work, which is so important for SFIREG to be successful. Fleeson Trossbach highlighted a few specific subject areas that SFIREG has been working on:

- Ingredient transparency – this issue was brought to SFIREG by industry (primarily antimicrobial/disinfectant/home use type products) that have been required by CA and NY, as well as Wal-Mart and Target, to disclose all of their ingredients or at least some of their ingredients. SFIREG developed a joint EPA/SLA workgroup, chaired by Anthony Lammano, NY, who looked at the issues such as partial disclosure concerns, confidential business information, and conflict with state and federal regulations. Currently EPA has defaulted to the CA guidelines and will follow the Label Review Manual. It should not become an issue for state registration programs at this time.
- PRN 96-8, which addresses routine contamination in pesticide products due to manufacturing processes. Kachadoorian raised the issue of contamination, and developed an issue paper for SFIREG's consideration during 2018, as OR had found the presence of

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unacceptable a.i.s in OMRI products due to contamination. After POM reviewed the Issue Paper, it was sent back to full SFIREG, where they voted to move the issue forward to EPA. The Issue Paper was formally submitted to EPA in the fall, and SFIREG and AAPCO are waiting for the formal response from EPA.

- Fleeson Trossbach also mentioned that she would like to discuss the current committee structure, meeting locations, and developing a tracking system for issues.

NASDA: DeLucia began by emphasizing her appreciation for SFIREG and the communication between NASDA and the State Lead Agencies. She highlighted the following areas:

- Farm Bill Implementation and Hemp – DeLucia is currently spending about 70% of her time on this issue, working with USDA to help develop a regulatory framework and providing input from SLAs. Fleeson Trossbach asked DeLucia to keep including both SFIREG as well as the states for which cannabis is a new topic. Kachadoorian added that including IR-4 for trials on hemp is important, and DeLucia stated she is in communication with them.
- Capitol Hill – with lots of new house members, NASDA is communicating frequently on FIFRA 101 type outreach, and is organizing a hemp briefing in the next few weeks.
- STAG resolution – DeLucia is currently advocating for an increase in STAG funds for the states. NASDA has sent a letter to appropriations on the topic, and expects to continue moving the ball forward with an increase next year.
- 24(c) letter to Administrator Wheeler – NASDA is concerned by EPA’s language.
- AEZ modification proposal at Office of Management and Budget – DeLucia expects rulemaking, but as of this time no one has seen the actual proposal.
- Biostimulants – NASDA is tackling this issue internally between their state partners in the fertilizer and pesticide programs. NASDA will be providing input on the guidance that EPA released earlier this month.

OPP UPDATE

Yvette Hopkins, EPA/OPP/FEAD, SFIREG Liaison

1. EPA’s Chemical Safety Office Launches Twitter Account

<https://www.epa.gov/pesticides/epas-chemical-safety-office-launches-twitter-account>

EPA’s Office of Chemical Safety and Pollution Prevention (OCSPP) is excited to announce the launch of our Twitter account, [@EPACChemSafety](#). Follow this account for the latest news on chemicals and pesticides, updates on our chemical review initiatives under TSCA, information on upcoming webinars and public meetings, and much more.

2. Extension for Complying with Certain Antimicrobial Product Performance Test Guidelines to August 28, 2019

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www.epa.gov/pesticides/extension-complying-certain-antimicrobial-product-performance-test-guidelines-august-28

EPA is extending the testing compliance implementation deadline by six months for the following three final guidelines:

- OCSPP 810.2000 - General Considerations for Testing Public Health Antimicrobial Pesticides
- OCSPP 810.2100 - Sterilants, Sporicides, and Decontaminants
- OCSPP 810.2200 - Disinfectants for Use on Environmental Surfaces

The Product Performance 810 Efficacy guidelines are a series of documents that provide recommendations for the design and execution of laboratory studies to evaluate the effectiveness of antimicrobial pesticides that work against public health pests.

Since the posting of the final 2018 guidelines, the Agency has received extensive feedback and inquiries from stakeholders regarding the need for further clarification on various topics. For this reason, EPA is extending the testing compliance deadline to Aug. 28, 2019. In the interim, applicants may utilize either the 2012 or the 2018 final test guidelines for product performance testing.

Documents pertaining to the revision of the test guidelines are available at www.regulations.gov, in docket # EPA-HQ-OPP-2015-0276.

3. Paraquat Certified Applicator Training to Prevent Poisonings Now Available

www.epa.gov/pesticides/paraquat-certified-applicator-training-prevent-poisonings-now-available

A new certified applicator training module for paraquat dichloride (also known as paraquat) is now available.

To help prevent accidental pesticide poisoning, certified applicators must now take paraquat-specific training before use. This training emphasizes that the chemical must not be transferred to or stored in improper containers. The training also covers paraquat toxicity, new label requirements and restrictions, consequences of misuse, and other important information.

View the paraquat training and paraquat training FAQs at: www.epa.gov/pesticide-worker-safety/paraquat-dichloride-training-certified-applicators

4. New RT25 Data Will Help Beekeepers and Farmers Protect Pollinators

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www.epa.gov/pesticides/new-rt25-data-will-help-beekeepers-and-farmers-protect-pollinators

EPA is updating its Residual Time to 25% Bee Mortality (RT25) Data table with information the Agency has collected since the table was first published in 2014.

RT25 data help farmers and beekeepers know about how long a specific pesticide may remain toxic to bees and other insect pollinators following foliar application to crops. The new data reflect the results of studies EPA has analyzed as part of our routine pesticide regulatory activities.

EPA plans to update the table annually as we collect additional data going forward.

5. EPA Releases for Public Comment Draft Guidance for Plant Regulators, Including Plant Biostimulants

www.epa.gov/pesticides/epa-releases-public-comment-draft-guidance-plant-regulators-including-plant-biostimulants

EPA released for public comment the Draft Guidance for Plant Regulators, Including Plant Biostimulants.

In recognition of the growing categories of products generally known as plant biostimulants, this draft document gives guidance on which products are and are not subject to regulation under FIFRA as plant regulator pesticides, and what kinds of claims can be made for them. The draft guidance provides examples of each.

Plant biostimulants are a category of products containing naturally occurring substances and microbes that are used to stimulate plant growth, enhance resistance to plant pests, and reduce abiotic stress.

The public can submit comments on this guidance at www.regulations.gov under docket # EPA-HQ-OPP-2018-0258. Public comments due May 28, 2019.

OECA UPDATE

Anthony Matusik, EPA/OECA SFIREG Liaison

1. Transition to FedTalent for Inspector Training – Federal Credentials
 - a. EPA has launched a new Learning Management System (LMS) – FedTalent. FedTalent is provided by the Department of Interior (DOI)

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- b. We are working with DOI on an external use authentication process to allow state inspectors access to FedTalent inspector training.
 - c. It is our expectation that all inspector training will be available through FedTalent on January 1, 2020.
 - d. At this time, state inspectors should continue to access inspector training through the inspector wiki & adobe connect. Guidance and instructions will be provided prior to the LMS transition.
2. PIRT Training
- a. 2019 PIRT
 - i. Pesticide Drift Issues, Kennewick, WA May 14 – 17
 - 1. Nomination period has closed
 - ii. Basic/New Inspector PIRT, Savannah, GA August 25 – 28
 - 1. Nomination period opening in late Spring
 - b. Need 2020 PIRT Hosts
 - i. FIFRA community voted on topics, PIRT steering committee selected the two topics that received the most votes:
 - Basic/New inspector PIRT
 - Risk communication and investigator safety
 - Pollinator protection
 - WPS
 - Pesticide Enforcement and Use Concerns PIRT
 - Misuse, illegal use
 - PEI, container, Imports/illegal Imports, dealer RUP, and marketplace inspections
 - Drift issues
 - Tribal PIRT
 - Risk communications
 - Pollinator protection
 - WPS
 - If your state, tribe, or territory is interested in hosting a PIRT with one of the topics listed above, please reach out to Kelly Engle, engle.kelly@epa.gov by **April 26, 2019**.
 - **If we do not receive volunteers for PIRT hosts by April 26, 2019 there will be no PIRT training in 2020.**
3. Focused WPS Inspections
- a. The possibility of defining and allowing “focused WPS inspections” was originally floated with states during the development of the 2017 WPS Inspection Manual.
 - b. To advance the concept of focused inspections, OC has recently formed a workgroup with Regional WPS coordinators to develop a framework for states wanting to pilot use of focused WPS inspections.

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- c. Defining focused inspections for WPS will provide Regions and states with the option to conduct some inspections that evaluate a subset of WPS requirements, rather than requiring that all inspections be comprehensive compliance assessments.
 - d. A potential value of using focused inspections is that they will require less time to conduct, enabling inspectors to quickly reach more establishments, using the same amount of resources. Focused inspections can also be valuable in educating the regulated community and even new inspectors on new regulatory requirements.
 - e. The framework under development will describe conditions under which focused inspections may be used, and what must be included as part of a focused WPS inspection.
 - f. The workgroup plans to have a draft framework available for state review in the spring of 2019.
4. FIFRA Inspection Manual Revisions
- a. Proposed revisions included the addition of new or revised guidance, updated exhibits, and clarification of specific sections of text.
 - b. Comments were solicited from EPA regions, states and tribes.
 - c. FIFRA Inspection Manual will be finalized before the end of April.

OPP and OECA Activities – Impacts of Federal Shutdown

Gary Bahr, WA and Committee Members

EPA chose not to discuss this topic with the states.

Bahr stated that a major effort for most states he talked to was to catch up with the Project Officers. Most states were wrapping up their grant finalizations and annual reporting. The shutdown slowed this effort considerably. Also, working on the new year's work plan was slowed, which takes a lot of effort from staff. Both efforts occur at the same time and the delay caused it to get backed up with state work that occurs in the spring, such as training and enforcement activities.

Kachadoorian said that states were in different stages of the grant process. This caused more issues for some states than others. Other issues reported included lack of movement on referred enforcement cases. Also a workgroup focused on the SLN guidance was set to submit to EPA on January 8th, and AAPCO had hoped to have EPA speak at the Spring Meeting on the guidance. The shutdown meant that didn't happen.

Lastinger felt that the lack of communication was an issue as well. They didn't know what was happening except what was reported in the news. Because of issues with funding due to the shutdown, GA couldn't hire new inspectors that they had expected to hire.

Drake added there were problems because they couldn't get answers to questions. Region 4 staff were impacted as well, and had a fair amount of stress trying to get deliverables to the states after the shutdown ended. Seal expanded that Region 4 couldn't host their pre-SFIREG meeting because of the shutdown. They did have a conference call, after canceling the in-person meeting.

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NC was also unable to have planned trainings, because the funding for the trainings had to be moved to pay salaries during the shutdown.

Fleeson Trossbach stated that the shutdown delayed EPA's ability to work on action items from the December SFIREG meeting, as well as EPA's response to issues. She also highlighted EPA's lost involvement in the Dicamba Ad Hoc Workgroup, which ultimately affected all of the Dicamba states as their trainings were occurring during the shutdown and there weren't final label interpretations available from EPA to inform the training topics.

Region 3 state's funding was not impacted too much. There was a lack of guidance on how to proceed though, which was surprising. Fleeson Trossbach mentioned conflicting answers from EPA staff, the return of submitted 24(c) registration packets, and that the states want a National Guidance in the event this happens again.

Drake also added that the timing of this shutdown was not as bad as it could have been, especially related to the need for Section 18 exemptions during the use season.

Mensch asked if inspectors would do export inspections during this time, and the response was no. How were 24(c)s managed, including the 90 day timeline? No answers. She also mentioned that Region 3 did a guidance document afterwards to help in the future.

Schoen-Nessa said that Region 10 issues were related to finances. Funds had already been allocated, but couldn't be accessed. Also, they had a brand new person in the fiscal office, and when EPA came back from the shutdown they said that the state didn't use the \$180,000 that they had to use by December 31, 2018. This was fixed by EPA's Las Vegas grant funding office in the state's favor.

Cuevas stated that CA did get some guidance about what to do, but that there were inconsistencies nationally in the messaging. It is good to prepare for future shutdowns. There were lots of disruptions to projects the state is involved with, such as their Neonicotinoid evaluations, 24(c) s, and delayed joint projects. The state usually communicates frequently with EPA.

Singhasemanon echoed Cuevas, says that their scientists work routinely with EPA. They had coordinated projects related to exposure and effects modeling that broke down and were delayed by the shutdown.

Leach stated that IN had difficulty finalizing their cooperative agreement. Then, when EPA staff were working again, they were pulled in so many directions it made it difficult to finish. The Dicamba enforcement worktables still are not complete, and that is frustrating for the programs.

Sunseri stated that for MN all inquiries, guidance, federal registrations and inspections were delayed, which was difficult. The registrants had difficulty in getting registration decisions in time, and that likely prompted MN to pursue a Section 18 that should have been a Section 3 if not for the shutdown.

Wijnja described MA's efforts to submit anticipated Section 18 exemption requests in the fall prior to the use season, in order to provide an early and improved process, but all of them are still pending with the use season fast approaching. They also approved a 24(c) that likely would have been a Section 3, but the federal registration was delayed by the shutdown so they moved to the SLN process instead to secure it for their growers.

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Kachadoorian asked if there was something sent to EPA on how to manage emails? She had received conflicting answers regarding if a state should send an email during the shutdown, or wait until it was over. Our understanding is that OPP and OECA received no guidance on this. Schoen-Nessa added that WA state's legislature guarantees all federal allocated funds, which gave them some security. It doesn't appear that is the case for most states though.

Tomlinson said that in ME's registration program, she worked directly with registrants to attain Master Labels, since the EPA system was down. She added that the EPA registration folks were on top if getting everything back in order when they returned to work.

Singhasemanon stated that they certainly had empathy for their federal partners during this period.

Fleeson Trossbach echoed the feeling of empathy for federal workers. She wants guidance, including how to help with workload issues for EPA upon return from a shutdown.

Dicamba 2019 Growing Season

Liza Fleeson Trossbach, VA, Dicamba Ad Hoc Work Group Update; Committee Members

Fleeson Trossbach shared workgroup progress and impacts with the JWC. Due to concerns brought up at Full SFIREG in December 2018, SFIREG developed a Dicamba Ad Hoc Work Group to address 2 years of registration and needed guidance. OPP, OECA, and 32 SLA staff are serving on the workgroup, which is split into 4 subject areas, chaired by the following:

Enforcement – Tim Creger, NE

Guidance – Dave Scott, OISC

Endangered Species – Gretchen Paluch, IA

Training – Tommy Gray, GA

Initially during the shutdown, there was anticipation that it would end quickly and EPA would be able to resume their involvement. Eventually the workgroup needed to move forward without EPA for the remainder of the shutdown. They met weekly until recently, and are now meeting bi-weekly.

For enforcement, the label tables are still delayed, and are considered an important tool for field staff. For endangered species, a major issue is that most states have not interacted with Bulletins Live Two, and it is essentially a new program that the states must train their applicators in.

There have been two webinars and outreach regarding use limitation areas.

In the training sphere, Gray conducted a survey of states, and they are almost all complete with the training season this year.

The guidance subgroup was unable to get answers because of the shutdown. Since, EPA has provided clarity as to the intent of some of the label statements. Many of the label issues seen on the Dicamba labels are long-standing label language issues that are now getting lots of attention because of the pressure on enforcement and the difficulties applicators, regulators and registrants are having in determining a unified and conclusive interpretation.

The label language issue will be further addressed by states providing examples of Label Review Manual conflicts and language that is open to various interpretations to EPA through a newly forming committee of SFIREG. If state regulators disagree on interpretation, how can we expect

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applicators to understand the labels satisfactorily? The guidance subgroup is trying to finalize the label tables and get them into the hands of the state regulators.

Any new issues or questions should be submitted to the workgroup. They expect to be around for as long as needed.

Drake thanked the folks who have participated in the workgroup.

Reed questioned whether real-time data was still necessary for the states to provide to EPA. The states worked very hard to provide it to EPA during the past two use seasons and the benefit is unclear. Also, these labels have shone a light on the continued use of label language that violates PRNs and the Label Review Manual, and it needs to be addressed. The language is very unfair to applicators and that is a problem.

Fleeson Trossbach recounted the impacts to states based on an AAPCO survey during the 2018 season, from least to most impactful:

- ¼ to 38 FTE dedicated staff on Dicamba issues;
- 440 to 6,800 staff hours;
- \$32,000 to \$1.2 Million cost to the state to manage Dicamba;
- 71% of states reported negative impacts to other state programs; and a
- 7-75% reduction in staff.

The states couldn't meet their other commitments, there have been holds on laboratory method developments, and staff fatigue and moral are real issues for program managers.

Kachadoorian brought up a new Syngenta label with Dicamba and Metolachlor and asked if anyone had any issues to bring up yet. Not yet.

Lastinger said with the label changes and training requirements they have needed to hire more license staff and change existing staff duties to keep up with certification processing. They needed to increase trainings to 30 this year, which is a big impact. Lastinger stated that he is unsure how long the state can keep the resources going to fulfill the training requirements. Drake agreed, and added the paraquat trainings to the overall impacts, stating that product-specific training is a new burden on SLA resources.

Several other states agreed that the certification requirements are very burdensome, with Seal stating that they training over 2,600 applicators this year, with three weed scientists conducting 30 separate trainings. He isn't sure how long the states can keep this up. They are considering using registrant training into the future but are hesitant. Reed responded that OISC trained 10,000 applicators during 2018 and are giving the training to the registrants for 2019.

Leach added that the burden on laboratories is very high. IN is working on determining when the state has to take physical samples versus when they can utilize qualitative, symptomology

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reporting at this point in an effort to unburden the labs. Hopkins added that the Ft Meade laboratory still has funding to support the states, similar to last year. States should work with their region to utilize it.

Special Local Needs 24(c)

Rose Kachadoorian, OR

Guidance Document: Kachadoorian began by detailing some of the questions from states that the guidance will address, such as:

- Terminology- do the states grant, issue, approve, or register the 24(c)? (the word request has never been included in the 24(c) conversation) Approved is likely to be the word used in the guidance.
- PRIA- at what point should the state say it needs to go back to EPA for a full risk assessment? Waiting for a response from EPA.
- What about multiple requests for the same active ingredient? The guidance says that is okay.
- What about multiple SLNs for the same product? If there is one EPA reg. no. and a unique SLN #, then the product is transferred to a new company, the state can create a new SLN # per the guidance.
- 2(ee) appears to generate a fair amount of confusion
- When does the 90-day period begin for EPA? It begins when EPA receives the SLN. What if a state delays sending in the SLN?
- Can distributors request SLNs? No, the primary registrant must request it first. Growers may use distributor labels developed after the primary registrant's sln is registered.

EPA has the guidance document and is reviewing it. Kachadoorian stated that she understands that states really need the information contained within the guidance. AAPCO and/or SFIREG may have to provide training if needed. Kachadoorian asked that states let her know if there are parts that haven't been addressed or if training is needed.

EPA's 24(c) website: Kachadoorian said that on March 19, 2019 EPA updated their website regarding how they plan to examine 24(c) registrations moving forward. EPA referred to the state registrations as requests, although it is well established that they are notified of the state registration and have the opportunity to deny the registration.

Kachadoorian stated that she does not see a significant difference in the Dicamba SLNs versus other SLNs in the states, and that the Dicamba SLNs were an effort to preserve the use by mitigating damage to non-target organisms. Otherwise the states may have lost the use of the technology. Kachadoorian emphasized that because the labels were brand new, and had not been researched by extension prior to release, there were many things on the labels that required additional mitigation. Using 24(c) is appropriate to narrow the label for mitigation. Rulemaking in this situation is not appropriate, as the labels were conditionally registered and have changed each year. You cannot pursue rulemaking for a moving target. Furthermore, many of the

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protections found in the SLNs have become part of the new Section 3 labels, again emphasizing the utility and appropriateness of the state registrations. Schoen-Nessa and Sunseri discussed adjacent parts of Section 24, stating that they allow states to further restrict labels at the state level.

24(c) Special Local Need registrations are not broken, and EPA should put their energy into other program areas that are actually problematic.

Kachadoorian encouraged states to comment individually. Among the committee members, it was noted that SC, GA, and CA attorneys are writing a letter. MN is attempting to gain more information. Kachadoorian finished by stating that there are statements in the draft guidance that support protections and use restrictions in 24(c).

USDA Biostimulant Workgroup – Progress Report

Sarah Caffery, OISC

Caffery outlined the main talking points regarding biostimulants and AAPCO's involvement:

Farm Bill – Sec. of Ag / SLA / EPA / USDA / stakeholders to provide report to congress

- identifies any potential regulatory, non-regulatory, and legislative recommendations,
- definition for plant biostimulants
- Goal is to develop regulatory framework to ensure efficient / appropriate review, approval, uniform labels

AAPFCO/USDA/Industry/NASDA calls

- SLA on the calls – WA, VT, IN, CA, OR
- Group has a deadline for their draft document April 19
- Waiting on a report from USDA
- Waiting on EPA guidance (draft guidance posted March 26)
- Industry is interested in something that looks like a 25(b) regulation through USDA

Uniform bill at AAPFCO would need to be implemented at state level

Would not relieve the registrant of registering the product as a pesticide when appropriate.

- SLA view makes the most sense to go through EPA where the product regulation system is already available

EPA's Draft Guidance for Plant Regulator Label Claims, Including Plant Biostimulants

- Purpose:
 - identify product label claims that would require regulation under FIFRA
 - seek comments on if EPA should develop a definition (requires rulemaking)
- provided a “generally speaking” explanation of PBS, but not a definition
 - “a naturally-occurring substance or microbe that is used either by itself or in combination with other naturally-occurring substances or microbes for the purpose of stimulating natural processes in plants or in the soil in order to, among other things, improve nutrient and/or water use

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efficiency by plants, help plants tolerate abiotic stress, or improve the physical, chemical, and/or biological characteristics of the soil as a medium for plant growth”

· Explanation of products that do not require registration – excluded by regulation from def. of plant regulator:

Plant nutrients and trace elements

Plant inoculants

Soil amendments

Vitamin-hormone products

· Examples of generic label claims considered non-pesticidal

· Provided definition of plant regulators (FIFRA section 2(v))

Provided examples of label claims that would require regulation under FIFRA (table 3 p. 9)

Provided examples of active ingredients that have modes of action that trigger regulation (table 4 p.10)

Just use of an AI does not require regulation

“A key consideration is what claims are being made on product labels” (p.5)

· Conventional chemical plant regulators were not listed on the table

If PBS includes a conventional chemical, it would likely be subject to registration

Concerns

· exaggerated claims / lack of efficacy to support

· clearly defined is a product is a fert or pesticide

· when using known AI, clarifications and regulation

Federal Laws vs. State Laws – differences

Industry doesn't seem to understand that changing federal definition will not change state definition

Pesticide, plant regulator, soil amendment...

Could end up with double registrations (undesired)

IE: spray adjuvants (Not in FIFRA as a pesticide, but some states consider a pesticide)

Registration of 25(b), devices and treated articles at the state level

Actions

· Continue AAPCO representation on USDA/AAPFCO calls

· Present an SLA, AAPFCO, APPCO biostimulant position paper to congress in response to Industry's requests

Kachadoorian thanked Caffery and Giguere for their time and involvement with the Biostimulant Workgroup.

FUTURE EDUCATION PROGRAMS WITH EPA – PREP, PIRT

Gary Bahr, WA; Cindy Wire, EPA/OPP; Carol Black, WSU

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JOINT MEETING MINUTES OF THE PESTICIDE OPERATIONS AND MANAGEMENT
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Carol Black referenced her report to AAPCO from the Spring Meeting regarding the program. The Certification and Training webinars are coming up prior to the C&T Prep course. There will be separate Tribal program webinars as well. The C&T Prep course will have 48 participants.

Bahr asked about the funding for the program. Wire stated that it is very important to keep weighing in, let them know what works, what you wish for in the PREP courses. Black followed up by emphasizing how important it is for the states to weigh in! Specialty topics such as water quality, WPS, etc., are moving into a three or four year cycle. How many courses should there be in a year? The PREP grant is about to be solicited.

Discussing PIRT, Black stated that because it is a funded cooperative agreement, through the regions to the states, a very limited number of states can host PIRT courses. For WSDA to host their upcoming PIRT, they had to have an MOU with WSU's PSEP so that WSDA could host. SFIREG is considering reaching out to EPA to see if the structure for funding PIRT courses could be made more similar to the PREP process so that more states may be involved. As Matusik stated in his OECA update, they are very concerned that states are unable to step up as hosts and we may lose some PIRTs because of the situation.

POM CONCURRENT SESSION – TIM DRAKE, SC, CHAIR

POM/EPA LABEL REVIEW INTERACTION

Rose Kachadoorian, OR

Kachadoorian began by identifying issues with label structure, enforceable vs. advisory language, use sites, and standard label language that states struggle with. The new workgroup will tackle these areas.

AAPCO envisions a survey to states for feedback and suggestions of labels or language (universal statements) to start with.

Hopkins will not say not to the project but practically speaking is not sure how much they can offer.

Some areas of discussion: can there be buy-in from upper management to get the Label Review Manual adhered to? Reed stated that many problem labels are in conflict with the LRM.

Schoen-Nessa asked how much can EPA handle? While it may be a monumental task to bring the labels into compliance with the LRM, it needs to be resolved. A key point of the discussion was how to have a training for EPA registration staff on the Label Review Manual. Cuevas added that problems with label interpretation due to the above issues is a major hurdle that leads to inconsistent enforcement and ultimately degrades EPA's role in federally registering the products. We need national label consistency. Julie Spagnoli added that the diversity of products is one of the many challenges of consistency.

POM will develop a strategy to take on this long-term project. Any ideas or opinions should be shared with Rose.

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UNMANNED AERIAL VEHICLES

Dwight Seal, NC and Rose Kachadoorian, OR

There is no specific certification category for UAV pesticide applications. Currently NC is using the aerial applicator category for UAV applicators. It is mostly used on mosquitos and noxious weeds there. Drake said that in SC there is interest in Right of Way applications. They currently are using the aerial applicator and area of application categories. NM is the same as SC, and research is beginning.

The question was posed if a 24(c) would be appropriate to us to address label deficiencies? CA use studies by UC Davis have seen it work. They used vineyards as their site, and in studies have not seen any concerns for drift or exposure or who is the applicator. ECR with three different chemicals. WA considers the use to be an aerial application, with basic formula of the label that must be followed, i.e. ppe and labeled rates must be followed.

The AAPCO Technology workgroup is forming and they are developing a mission statement and goals, such as educational materials, licensing recommendation, reports to AAPCO, will start with UAVs then on to robots, automated dispensers and possible AI. Members currently include the states NC, WI, IN, VA, WA, and OR. AAPCO is still accepting folks into the committee. The goal is to keep the work as national in scope as possible and develop an overall template for the states to use.

REGULATION OF DEVICES

Yvette Hopkins, EPA/OPP/FEAD

Hopkins noted that questions regarding devices are being collected for a survey to the states. A pool of questions has been developed for committee review, and will be submitted by the end of the week. Device regulation is outdated and doesn't meet the necessary burden. EPA doesn't know if they are efficacious or safe. It started with with ozone generators and the question of if they need to be regulated or if the products need to be registered federally. Occasionally EPA is asked for a device determination.

PESTICIDE FEED ADDITIVES LETTER

Tim Drake, SC

A memo has been drafted to be shared with the SLAs. There should be a statement added that the product is to control insects after passing through and that there are not therapeutic effects for the animal. Drake will submit the memo to the committee for their review.

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PESTICIDE ACTION THRESHOLDS/TOLERANCES

Committee Members/ White Paper-Letter to States Discussion

Kachadoorian began by saying that OR is responsible for starting this. They have a law that all cannabis be tested and the threshold level is determined by asking laboratories for their level of detection and then doubling that number-it is not based on any human health or environmental data.

Cuevas feels that a letter like this would not be appropriate for solving the problem. It could cause a ripple effect and could undermine an effective program at the state level. Schoen-Nessa wrote the draft letter for POM. She felt that the draft would not be finalized and would cause more harm than good. Drake added that the timing is difficult and Patterson agreed. POM will not proceed with the letter at this time.

Kachadoorian added that the levels are too high, and that actions levels and tolerances are being confused. Continuing to work with the state partners is the best approach at this time.

KIT/CO-PACK ISSUE

Matt Sunseri, MN

Sunseri submitted a packet of questions to EPA, and is still waiting for a response. States are finding these products across all markets; there are lots of examples. It is causing a problem in MN with reporting. They are also finding 3rd party retailers making their own kits-not a producer establishment or supplemental registrant. Packaging doesn't always identify the contents until it is opened.

Hopkins noted that the two EPA staff members with this expertise have moved on-one is retired and one has had their position change responsibilities.

POM will form a subcommittee to move the issue forward, including Sunseri, King, Seal and Schoen-Nessa.

EQI CONCURRENT SESSION – GARY BAHR, WA, CHAIR

RESULTS OF PLANT BACK ISSUE SURVEY, PLANT BACK WHITE PAPER, AND RECOMMENDATIONS

Mary Tomlinson, ME

See presentation and white paper.

PESTICIDE OF INTEREST TRACKING SYSTEM (POINTS) – WHITE PAPER AND SUMMARY

Laura Mensch, DE

See presentation and white paper.

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STATE UPDATES ON ISSUES RELATED TO ENVIRONMENTAL QUALITY PROGRAMS.

EQI Committee Members

California- Nan Singhasemanon

- CA,NV,AZ finding imidacloprid in GW (groundwater)
- Working with CA Water Board to obtain SW (storm water) data to compliment pesticide data
- Expanding water analysis to include waste water
 - Looking at risk as relates to source discharges
 - New technique to look for unknown pesticides
- 15-16 contracts for modeling:
 - Imidacloprid & thiamethoxam – looking at pathways and how might inform development of management practices
 - Indoor deposition of foggers – down-the-drain studies
 - Evaluate efficacy of management practices, e.g. buffer strips
 - Pavement dust as source of pesticide contamination
 - Developing new hybrid statistical model to look for patterns that impact pesticide concentration and inform management practices
 - Mitigation work using bioreactors -new area of study
- Using data from copper leach rate studies for outreach
 - Doing routine monitoring every two years at coastal marinas as follow up to see if outreach worked
- Evaluating pesticides for high risk – waste water treatment, increased use rates

Florida- James Cooper

- Imidacloprid in SW, now classified as POC
- Piggybacking on DEP studies to collect water samples – collecting water from 25-30 watershed with MDL exceedances
- GW showing more arsenicals – none registered for 7-8 years, likely due to geologic arsenic
- Still finding legacy pesticides in GW
- Hemp and medical marijuana (MMJ) – working on developing list of pesticides for these
- Feral pig control – warfarin and sodium nitrate
- Aldicarb is back – citrus use
- Glyphosate is public relations issue
- Restriction on planting *Bt* cotton seed due to potential impact on native cotton
- Dealing with conehead termites
- Lost methyl disulfide registration – used for soil fumigation

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- Residential watershed more problematic now that agricultural

Massachusetts- Hotze Wijnja

- Targeted monitoring in cranberry bogs – occasional detections, below levels of concern
- GW monitoring Cape Cod
 - 6 public water supply wells
 - ROW and lawn care, turf pesticides
 - Modeling shows very low levels of concern
 - One detection - imidacloprid
- Effort to ban anticoagulant rodenticides due to dying raptors – on 2020 ballot
 - Only allows use for public health emergency declarations
- Effort to restrict use of mist blowers to apply mosquito control on small properties due to drift
- Dead lantern fly found in poinsettia plant; effort to monitor & public outreach
- Inspectors busy inspecting hemp & MMJ; finding residues of unapproved pesticides in MMJ
- Legislative efforts to restrict glyphosate & neonics

OR- Colton Bond

- Converting acreage from grass seed to hazelnuts and therefore there are increased drift concerns with air blast sprayers
- Undergoing rulemaking related to use of aminocyclopyrochlor in ROW
- Japanese beetle infestations – exceeded total for all previous years; actively treating areas, considering quarantines in the future (9-year plan)

IN-Carrie Leach, OISC

- Discussions underway to begin water monitoring program
- Busy with dicamba issues, revising investigative process and sampling for dicamba
- Searching for other penalties to address issue with low fines, i.e. license suspension in addition to fines for repeaters
- The programs will conduct a background fungicide study for fungicides aerially applied to corn
- Drift complaints are rising, looking for ways to ID drift other than sampling

NC – The following is from John Allran, who was not able to attend in person:

I wanted to update you on the progress on our collaborative efforts with Depts. Environmental Quality and State Lab Public Health for advancing the surface water monitoring program to fulfill our responsibilities for water quality activities in the EPA Cooperative Agreement Grant Guidance.

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- Renee Woody (Environmental Programs Specialist) and I have entered aquatic toxicity and environmental fate data on 470 pesticide active ingredients registered for use in NC, and used the semi-quantitative risk ranking spreadsheet I had presented to EQI last year to rank their risk to aquatic life. Approximately 370 active ingredients are ranked as moderate to high risk to aquatic life. Our strategy is to use a modified LC/MS/MS method based on the one that Minnesota uses to look for as many of the pesticides ranked moderate to high risk as possible, and then compare any concentrations detected to aquatic life benchmarks for pesticides or other water quality standards.
- Dept. of Environmental Quality is collecting 15 samples/month for pesticides in their Random Ambient Monitoring System, for a total of 180 samples per year for the new RAMS cycle that started in January 2019. They are currently using older EPA methods, but are willing to collect additional water samples for analysis by State Lab of Public Health, with minimal additional effort (no labor costs) because they already have technicians going out to collect samples from the streams selected according to the EPA-approved RAMS design.
- Last Fall, I asked our State Lab Public Health for an update about their efforts to have instrumentation and methods in place to run surface water samples using their LC/MS/MS and modifying the method that Minnesota Dept. of Ag uses to test for 100+ pesticide active ingredients. They replied that they are moving forward on the project and put in a request to purchase the extraction equipment used in the Minnesota method and that they are preparing to order the analytical reference standards, but will hold off until they have the extraction equipment because some standards have relatively short holding times and they don't want to place the order until they can begin testing.
- Last week, State Lab Public Health emailed me that they have training on their new auto-extractor this week and will be ordering the standards soon so we should be ready to start this testing sometime in the summer. Once the standards are received, they will need some time to do method detection limit studies and other qualification procedures to be sure they can accurately detect all pesticides of interest. She and James completed the cost estimate based on 15 samples/month for a total of 180 samples/year, and they will require **\$25,000 to cover the cost of analytical materials**. They reported that the major expense is the standards which are over \$10,000 this time and seem to increase with each order. Since they only last 6-months, these must be ordered twice annually.

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- This costs assumes that DEQ will be providing the sample collection bottles and covering any shipping costs. So, I will need to discuss this with DEQ to determine if they will assume this cost or if we need to pay for the bottles and shipping cost.
- I think we are in a good position because we are not having to pay for labor for sample collection OR analysis, and the cost estimate for lab analysis is very reasonable. For comparison, Minnesota has contracted out with a commercial lab to conduct analyses of surface water that they cannot do in house, and they said that Weck Laboratories out of California is the least expensive lab that could perform the analysis that they need, and their cost was \$411/sample in 2017. This cost would translate into \$73,980 for 180 samples per year. So we can get the sample collection AND analysis completed through cooperation with NC DEQ & SLPH for approximately a third of the cost of sample analysis by Weck Labs.
- Currently working on possibly funding through our Pesticide Environmental Trust Fund (PETF).

Tuesday April 9, 2019

STATUS OF NEONICOTINOID RISK ASSESSMENTS & POLLINATOR UPDATES

Liza Fleeson-Trossbach, VA; Rose Kachadoorian, OR; Steven Snyderman, EPA/OPP; Christina Wendell, EPA/OPP

Snyderman gave a brief history of the docket activity, which was opened in 2010-2011. EPA is currently reviewing the 1.3 Million comments they have received. In June or July 2019, EPA will publish a proposed interim decision that is informed by response to comments, benefits assessments, human health and ecological risk assessments, including aquatics. It also will include a voluntary stewardship plan developed by the registrants, and what the federal agencies have done to protect pollinators. There will be a 60-day comment period. Then, in late 2019 expect the interim decision to be published. This does not have a comment period.

Kachadoorian asked if the agency looked at systemic movement and translocation to nectar and pollen, and Snyderman replied yes. She followed up asking if rates of application were also included, and Snyderman again replied yes, emphasizing that EPA looked at differences between urban and agricultural rates. Schoen-Nessa asked if states should expect to see changes to the labels and the response was that we will be able to see proposed label changes in the proposed interim decision.

Fleeson Trossbach reviewed the final national metrics to assess the success of the state managed pollinator protection plans. A survey to states has been developed and is in review. We expect to distribute it in the fall and the results will be shared with EPA.

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Kachadoorian moved into an update for the AAPCO Pollinator Protection workgroup. Currently they are maintaining an MP3 inventory, and review of EPA's assessment of MP3s. They are working with the honeybee health coalition to update pollinator protection statements. Kachadoorian encourages states with an interest in participating in the workgroup to reach out to her or her co-chair, Pat Jones of NC.

Wendell gave an update on Rt25, which is intended to be a measure of the toxicity to less than 25% of exposed bees. It indicates products that may be less toxic when applied to crops in bloom. In March 2019 the RT25 list was updated. There can be variability among formulated products with the same a.i. Uncertainties also surround the impact of field conditions. A group of industry technical experts, known as PRTF is working with EPA to explore better study design and use labs. EPA wants to coordinate with academia and states moving forward also.

LABORATORY UPDATE

Carrie Leach, OISC

Leach began by describing a presentation from the National Standard Repository given during the 2019 AAPCO lab committee meeting in March. The repository gets standards from registrants. EPA and the state labs use the repository extensively. They also have old chemistries that may be accessed, and all of the registrant methods. They are located in Maryland.

The upcoming national Pesticide Workshops are scheduled for June in Florida, where they specifically are hoping to attract some OECA attendees. In 2020 they will meet in Nevada and in 2021 in Indiana, and both workshops will focus on lab analysis.

The Check Sample program has a very high number of labs participating this year- 93 labs from the US and around the globe. The U.S. labs include 35 regulatory labs and 5 private labs. The rest are international laboratories.

Labs who utilize the ISO 1705 laboratory accreditation, required for Pesticide Data Program work, are encouraging each other to share audit results, which will help improve all of the lab programs.

The labs hold their calls on the even months. The next call is April 22, 2019.

HEMP ROUNDTABLE

Five growth regulators/synergists are currently registered for use on hemp.

- Sunseri said that in NM they have not received any mandates or directives to develop a product list.
- Personette said that WO was looking at 25(b) products and ambiguous section 3lables.

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- Schoen-Nessa said that while they have a list of over 300 products that are allowed for use on cannabis, they have concern about the extraction and concentrated residue that may be found in oils derived from hemp. They are looking forward to research that is currently being conducted.
- Cuevas said that in CA they are learning about hemp and trying to not move too fast. They do not have a list of approved pesticides, rather they only enforce if the product is prohibited from use by the label. Laboratory analysis may be a potential issue as well.
- In Georgia, Lastinger said that they just had bills pass the legislature allowing hemp to be grown. They are interested in EPA and other state approaches for pest management. In
- NC Seal said they currently have about 500 hemp growers, but they do not currently recommend or approve any products for use.
- Fleeson Trossbach said that in VA they are starting to get calls from growers. They allow recommendations for products, mostly that are exempt from food tolerances, but it is not a formal list. They are feeling a lot of pressure and want to slow things down. Their laboratory is involved.
- Singhasemanon added that CA is concerned about potential runoff for outdoor grow sites.
- Wijnja related that MA is working hard on both marijuana and hemp, as they now have recreational marijuana. Policy currently is that there are no registered pesticides allowed, only 25(b) products. They are also developing lab analysis for all cannabis.
- In OR the infrastructure is already built due to recreational marijuana, with 417 products that are not illegal to use. They can see the usefulness of pursuing a 24(c).
- Currently in ME, Tomlinson said they are working on a list using the criteria of food use, exempt from tolerance, ag use chemical, not a home and garden products. The list is currently under review by the state's attorney general.
- Mensch said in DE they are working with the plant industry section with seed, and the need for security. They will follow the federal government's lead regarding pesticides, but do allow 25(b).
- In IN, Leach said that the feed lab works with industrial hemp. The pesticide lab would need 3-5 months to develop methods for hemp. They expect drift complaints, and currently will take weed or soil samples, but not samples of hemp as they are going through the controlled substance permitting since they can not guarantee that any hemp they may collect will contain less than 0.3THC. They are also looking for cooperative labs. Hemp requires a GC method.
- Cooper from FL said that they are in rulemaking, and things are going very fast. They will likely allow products that meet the following criteria: 25(b)s, OMRI certified, tolerance exempt, registered for tobacco, and have an unspecified crop category.

CERTIFICATION AND TRAINING WORK GROUP UPDATE

Richard Pont, EPA, OPP

All of the updated C&T materials are available now. There is a SOP for the regional administrators approval process that is currently under review. The PREP attendees will have a

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webinar in mid-April prior to the training later in the month. EPA is working with tribes separately.

**REPORT ON PLANT BACK ISSUE SURVEY AND WHITE PAPER & REPORT ON
POINTS WHITE PAPER**

Mary Tomlinson, ME and Laura Mensch, DE

After discussion the committees decided that both papers will be presented to Full SFIREG in June 2019.