EPA Region 5 Pre-SFIREG Meeting Report

Meeting Dates: May 8th and 9th, 2019
Meeting Location: Chicago, Illinois - EPA Region 5 Office
Report Prepared By: Brian Verhougstraete (MI) – Region 5 SFIREG Representative
In Attendance: Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin, White Earth Nation, and EPA Region 5

Full SFIREG Topics

1. State Updates:
   - Most states in the region are developing hemp programs for licensing and regulating growers and states are already getting pesticide use questions.
   - Several states indicated that they are receiving more and more inquiries from citizens and stakeholders that are concerned about the safety of glyphosate.
   - Several states indicated that they are seeing an increase in certification activity due to the revised dicamba labels for 2019.
   - Wisconsin reported that they are finding atrazine residues in urban areas and believe it is due to deposition from rainwater contaminated with atrazine.
   - White Earth reported that they are working with EPA through the TPPC to ensure the Agency is considering tribal uses of natural resources when they are conducting their risk assessments.
   - Several states are working on new IT systems. Some states are working with vendors to develop custom built systems, while others are building semi-custom systems using existing platforms. States involved in system development noted the significant impacts the projects are having on their human and financial resources.

2. Dicamba:
   SLA’s are seeing an increase in the number of applicators becoming certified as a result of the new dicamba labels.

   SLA’s had a discussion about whether or not they were willing to provide the Agency dicamba complaint data as they did throughout the 2018 season. AAPCO and SLA’s spent precious time and resources compiling dicamba-related data and information throughout the 2018 growing season and hoped that the Agency would use the information to provide meaningful relief to states overwhelmed by dicamba complaints. States were quite disappointed with the most recent dicamba label amendments and expressed reservations about gathering dicamba complaint data during the 2019 growing season.

   States also expressed concern with the training programs offered by some dicamba registrants, noting that some of the dicamba training events they have attended provide little in the way meaningful content and were much shorter in length than what was identified on the agenda. States are also concerned that they are being held to a different standard than the registrants when it comes to the training content and attendance requirements.
3. **Potential 24(c) Changes:**
   All states and White Earth Nation are very concerned about the potential Special Local Needs (SLN) registration changes the Agency is considering. SLN registrations, which states are given authority to issue under Section 24(c) of FIFRA, are an extremely important tool that states have used successfully for decades. If EPA chooses to implement the proposed changes to the 24c process, some SLA’s could be forced to cancel the registrations of problematic products that otherwise could be managed through an SLN registrations and labeling.

   Region 5 SLA’s have drafted a letter that will be sent to EPA management (headquarters), expressing concerns about the potential changes to the SLN registration process.

4. **C&T:**
   Region 5 has a regional C&T workshop planned for May. States continue to be concerned about the March 4, 2020, submission deadline and frustrated at the Agency’s delayed release of guidance materials and the Agency’s changing interpretation of the rule. The Agency’s current position on plan changes that must be put into laws/regs vs. what can be accomplished through policy was a particular issue for SLA’s. Specifically, the current interpretation that exam competency standards need to be codified into laws and regulations was the most concerning issue for several SLA’s and one they seek further clarification on as soon as possible.

   SLA’s are also very concerned about the lack of staffing and turnover in EPA’s Certification and Worker Protection Branch. The staffing issue is having a significant negative impact on SLA’s at a critical time and there is real concern that continued lack of resources in the branch will begin to negatively impact applicators, growers, and ultimately human health and the environment.

5. **UAV’s:**
   MN provided an update on their use of UAV for inspection purposes. MN has two pilots and a UAV that they plan to potentially use for incident response or complaint investigation starting with the current use season. Other states in the region are interested and/or working on developing a regulatory UAV program.

   MI reported that they are currently prevented by law from using UAV’s at state licensed or permitted facilities. State departments may use a UAV if given permission by the licensed facility, they have a search warrant, or there is imminent threat to public health, safety or natural resources. The law also requires that any data collected shall be furnished promptly upon request to the facility without the need to file an information request under the freedom of information act (FOIA).

6. **Problematic Pesticide Label Language and Conflicting Interpretations:**
   SLA’s discussed the growing problem of labels that are poorly worded and difficult/impossible to interpret and understand. While enforceability of label language is a closely related issue, the discussion was more about language that is simply difficult to understand. The “near” and “adjacent” language that appears on the new dicamba labels was used as a prime example of poorly worded labels. SLA’s also noted that they are receiving very different responses from EPA when seeking interpretation guidance. One state mentioned that they asked EPA the exact same question 6 months apart and got polar opposite responses from the same product manager. In some cases, states are getting answers from EPA that are in conflict with the label review manual.

   Region 5 SLA’s believe this is a significant enough issue that SFIREG should consider working with EPA to address the problem.
7) Legal uses of Glyphosate on Liberty Link GT27 Soybeans:

Region 5 had a discussion lead by OH regarding the use of glyphosate on Liberty Link GT27 soybeans which are tolerant to both glyphosate and glufosinate. The issue is that the labels of some glyphosate products specify that the product can be used over the top of “Roundup-Ready” or “Roundup-Ready 2” crops and other glyphosate labels indicate that the product can be used on “glyphosate tolerant” or “glyphosate resistant” soybeans. Since Liberty Link GT27 doesn’t contain the Roundup-Ready gene, it would technically be a label violation to apply products labeled specifically for “Roundup-Ready” or “Roundup-Ready 2” crops.

EPA Headquarters joined the meeting for this discussion and indicated that from a risk assessment perspective, there is no concern with using “Roundup-Ready” labeled products on Liberty Link GT27 soybeans, but it could be considered a label violation. EPA also indicated that some registrants are aware of the issue and have started using the more generic glyphosate language on their labels and EPA would defer to SLA’s on interpretation/enforcement of the “Roundup-Ready” specific labels.