Message

From: ONeill, Sandra [ONeill.Sandra@epa.gov]
Sent: 4/7/2021 1:17:14 AM
To: Messina, Edward [Messina.Edward@epa.gov]
CC: Picone, Kaitlin [Picone.Kaitlin@epa.gov]; Hopkins, Yvette [Hopkins.Yvette@epa.gov]
Subject: SFIREG JWC Mtg: Dicamba Speaker and Questions for EPA
Attachments: POM.EQI April 2021 Draft Agenda 4.1.2021.docx

Hi Ed,

At next week's SFIREG Joint Work Committee meeting, dicamba is again a topic and SFIREG has submitted some 24© questions for EPA to address in this session (see below). In response, RD has provided some points from Michal's AAPCO session on this topic (also below) and I'm following up to see if you might be interested/available to cover the points and discussion for which there may not be easy answers.

The dicamba session will be from 12-1 PM on April 12th. The forum is public though for this or future meetings, SFIREG has indicated they'd be open to having a closed door session if more information is able to be provided in a closed door session.

SFIREG Questions: "During the joint session on Monday, when EPA is providing an update (lawsuits, etc..) could they address the following as it relates to 24(c) registrations.

- For many years states used 24(c) registrations to meet local needs with success. When over-the-top uses of dicamba began to cause problems SLAs attempted to tailor use of the material to meet their local needs again with 24(c) however in 2020 the Agency made clear that section 24(c) of FIFRA was to be used to expand use and not be more restrictive; these registration which are found to be more restrictive would be disapproved. Now in 2021, there are states interested in expanding the use for a period of time after the cutoff (because they feel it may be arbitrary given the season/weather in their part of the country) which on first glance seems to comport with the law and authority available to states under this provision of FIFRA, however that was denied as well.
    - If restrictive registrations are a "no" and registrations adding uses are a "no" what does "yes" look like and when might we see it?
    - Will this depend on further lawsuits, incidents in the 2021 growing season, etc..."

Points from Michal's AAPCO session

- Correct, restrictive registrations are a "no" under 24(c).
- It's incorrect that registrations expanding uses are a "no" for 24(c)s. However, in the case of dicamba specifically, EPA is interested in establishing a baseline of data from the 2021 growing season on dicamba's performance when the requirements of the Oct. 2020 federal labels are followed.
- Re. incidents, EPA continues to monitor dicamba's track record and requires registrants to submit incident data in accordance with the terms and conditions of registration for their products. EPA also encourages states to continue to communicate their incident findings on dicamba to the Agency.
- Re. litigation, EPA does not know what stance courts may reach on pending dicamba actions, but the Agency will comply as required by law with any legal decision(s).

Thanks in advance for your thoughts on an approach forward.

Sandra O'Neill
AAPCO/SFIREG Project Officer and EPA Region and State Liaison
Environmental Protection Agency
Office of Chemical Safety and Pollution Prevention
Office of Program Support
Mission Support Division
Intergovernmental & Community Relations Branch
919 323 7926

From: Rosenblatt, Daniel <Rosenblatt.Dan@epa.gov>
Sent: Friday, April 2, 2021 2:54 PM
To: ONeill, Sandra <ONeill.Sandra@epa.gov>; Hathaway, Margaret <Hathaway.Margaret@epa.gov>; Nesci, Kimberly <Nesci.Kimberly@epa.gov>; Echeverria, Marietta <Echeverria.Marietta@epa.gov>
Cc: Schmid, Emily <Schmid.Emily@epa.gov>; Kenny, Daniel <Kenny.Dan@epa.gov>
Subject: RE: SFIREG JWC Mtg: PFAS & Dicamba Questions for EPA

Hi Sandra – while I think Meg super skilled at these type of meetings – Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

From: ONeill, Sandra <ONeill.Sandra@epa.gov>
Sent: Friday, April 2, 2021 2:37 PM
To: Hathaway, Margaret <Hathaway.Margaret@epa.gov>; Nesci, Kimberly <Nesci.Kimberly@epa.gov>; Rosenblatt, Daniel <Rosenblatt.Dan@epa.gov>; Echeverria, Marietta <Echeverria.Marietta@epa.gov>
Cc: Schmid, Emily <Schmid.Emily@epa.gov>; Kenny, Daniel <Kenny.Dan@epa.gov>
Subject: RE: SFIREG JWC Mtg: PFAS & Dicamba Questions for EPA

Meg – thanks for this. We've got an updated draft agenda (attached) from SFIREG and the dicamba session will occur on April 12 from 12 – 1 PM. Seems like the points for this session might be well in hand with the info. from below.

Might you be the right person to list as speaker for this session? If so, I can send a scheduler with the meeting info. to hold this place on your or the appropriate person's calendar(s).

Thanks in advance for any info. and a happy Friday to all!

Best,

Sandra O'Neill
919 323 7926

From: Hathaway, Margaret <Hathaway.Margaret@epa.gov>
Sent: Wednesday, March 31, 2021 4:03 PM
To: ONeill, Sandra <ONeill.Sandra@epa.gov>; Nesci, Kimberly <Nesci.Kimberly@epa.gov>; Rosenblatt, Daniel <Rosenblatt.Dan@epa.gov>; Echeverria, Marietta <Echeverria.Marietta@epa.gov>
Cc: Schmid, Emily <Schmid.Emily@epa.gov>; Kenny, Daniel <Kenny.Dan@epa.gov>
Subject: RE: SFIREG JWC Mtg: PFAS & Dicamba Questions for EPA

Hi Sandra:

Regarding the dicamba questions, I welcome input from Dan and Marietta but it seems to me that OPP would reiterate for SFIREG some of the talking points Michal made re. 24cs at the recent AAPCO meeting. Namely:

- Correct, restrictive registrations are a "no" under 24(c).
- It's incorrect that registrations expanding uses are a "no" for 24(c)s. However, in the case of dicamba specifically, EPA is interested in establishing a baseline of data from the 2021 growing season on dicamba's performance when the requirements of the Oct. 2020 federal labels are followed.
- Re. incidents, EPA continues to monitor dicamba's track record and requires registrants to submit incident data in accordance with the terms and conditions of registration for their products. EPA also encourages states to continue to communicate their incident findings on dicamba to the Agency.
- Re. litigation, EPA does not know what stance courts may reach on pending dicamba actions, but the Agency will comply as required by law with any legal decision(s).

Meg

From: ONeill, Sandra <ONeill.Sandra@epa.gov>
Sent: Wednesday, March 31, 2021 1:53 PM
To: Nesci, Kimberly <Nesci.Kimberly@epa.gov>; Rosenblatt, Daniel <Rosenblatt.Dan@epa.gov>; Echeverria, Marietta <Echeverria.Marietta@epa.gov>
Cc: Nguyen, Thuy <Nguyen.Thuy@epa.gov>; Qian, Yaorong <qian.yaorong@epa.gov>; Hathaway, Margaret <Hathaway.Margaret@epa.gov>; Schmid, Emily <Schmid.Emily@epa.gov>; Picone, Kaitlin <Picone.Kaitlin@epa.gov>
Subject: SFIREG JWC Mtg: PFAS & Dicamba Questions for EPA

Hi Kimberly, Marietta, Dan and all

As a follow-up to the 3/10 SFIREG Joint Working Committee walk-through meeting, SFIREG has sent questions for the PFAS and Dicamba sessions (SFIREG JWC to take place April 12-13). We've informed SFIREG that EPA goes through clearance processes for questions submitted in advance, and these may not have arrived in time to get senior level clearance. If that's the case for these questions, may be good to plan for a back pocket response appropriate for a public meeting, offering a full response at a later time to give time for clearances.

FYI: We have not yet received an updated agenda from SFIREG. We've also passed on Pentachlorophenol questions to AD.

Please let me know if you may have any questions/comments on the submitted questions and I'll coordinate with SFIREG.

Many thanks,

Sandra O'Neill
AAPCO/SFIREG Project Officer and EPA Region and State Liaison
Environmental Protection Agency
Office of Chemical Safety and Pollution Prevention
Office of Program Support
Mission Support Division
Intergovernmental & Community Relations Branch
919 323 7926

From: Rogers, Jeffrey <jeffrey.rogers@vdacs.virginia.gov>
Sent: Wednesday, March 31, 2021 1:00 PM
To: ONeill, Sandra <ONeill.Sandra@epa.gov>
Cc: Leach, Carrie A <leach13@purdue.edu>; GBahr@agr.wa.gov; aapco.sfireg <aapco.sfireg@gmail.com>
Subject: JWC Mtg: PFAS, Pentachlorophenol & Dicamba Questions for EPA

Good Afternoon Sandra,
As per your request, I have included a few of the questions the JWCs would like to have addressed by EPA, if possible. I apologize for the delay, I hope there is still time for the appropriate people to be able to get the appropriate approvals from senior staff. Many thanks to Gary and Carrie for pulling this off.

PFAS

During the joint session on Monday, could EPA address the following:

- What is the definition of a PFAS compound in the context of pesticides?
- Mixed messages between the Ft. Meade lab stating they need more data to draw any conclusions regarding PFAS coming from the container vs. action being taken on the containers and targeting them as the source of the PFAS
- What containers are being purchased off the open market for additional testing by BEAD/Ft. Meade and are they the same level of fluorination as the initial container rinsate testing?
- If not, is there reason similar containers are not being used to perform the leaching studies?
- According to the EPA PFAS Master List, comprising a master list of PFAS chemicals, https://comptox.epa.gov/dashboard/chemical_lists/pfasmaster several pesticide active ingredients such as Lufenuron, Noviflumuron, Tetraconazole, Pyrifluquinazon are listed as PFAS chemicals, however the webpage states that there is no clear definition of PFAS chemical. An excerpt from the webpage :"There is no precisely clear definition of what constitutes a PFAS substance given the inclusion of partially fluorinated substances, polymers, and ill-defined reaction products on these various lists. Hence, PFASMASTER serves as a consolidated list of substances spanning and bounded by the below lists, defining a practical boundary of PFAS chemical space (within DSSTox) of current interest to researchers and regulators worldwide. This PFAS Master List will continue to expand as component lists grow. (Last Updated: September 16th 2020)". Are the active ingredients listed actually PFAS chemicals?
- EPA has indicated a "clean up" of PFAS in the Pesticide Inert Finder database as the database includes some PFAS compounds. EPA further indicated that even though these compounds were listed, they do not occur in currently registered pesticide products (this was information relayed in a presentation to Massachusetts mosquito control districts earlier this year). Could an update be given on the effort to clean up the inert database?
- What should be done with remaining stocks of Anvil 10+10? Can more information be provided on the registrant's response?
- Will there be a similar response from EPA regarding Permanone 30-30?
- Other than Anvil 10+10, what other packaging/products are affected, including those that may go beyond the agrochemical industry such as in the food industry or homeowner products? Can a list be provided?
- Will affected products be placed under Stop Sale/Stop Use by EPA or State Lead Agencies?
- Is there a Safety Data Sheet (SDS) for the packaging?
- If PFAS contamination is confirmed to be linked to the fluorination process, what are the alternatives to fluorination or alternative types of rigid containers available to the agrochemical industry?
- After Anvil 10+10 is properly mixed (diluting the concentrate) and applied at the maximum label rate, what level of PFAS is making it into the environment?
- Will there be a foreseeable interruption in supply and inventory if the science leads to a change in fluorinated HDPE containers?
- What are the positions of other governments and trade partners, including Canada, Mexico, and the European Union, on PFAS? Are levels of concern or action levels established in other countries?
- What will this mean for export/import of agrichemical products? What will this mean for the import/export of agricultural crops that were treated with agrichemicals stored in fluorinated HDPE packaging?
- Are there continued considerations being given regarding SLA laboratories providing analytical support? If so, what are they?

- What consideration, if any , is being given to pesticide container recycling programs in regards to the fluorinated HDPE containers?

During the EQI breakout on Tuesday, the committee would like to continue discussions and address some additional topics:

- Methods used for determination. Will BEAD be sharing their validated methods with states?
- EPA Methods 537.1 and 533 are established and being used with some differences between them. What methodology would be appropriate for testing?

Pentachlorophenol

During the joint session on Tuesday, could EPA address the following:

- Discussion on the action proposed in the March 5, 2021 notice,
- Cancellation and phase out plans,
- What kind of comments are they looking for by May 5th,
- Time table for the phase-out and continued use of stockpiled material,
- Dealing with treated wood products that are in the chain of sale or commerce,
- Future commercial uses of existing or newer pentachlorophenol replacements
- Are the replacements more effective and sustainable,
- Some alternatives such as DCOIT are being utilized extensively, and will increase, according to EPA's pesticides wood preservatives page: https://www.epa.gov/ingredients-used-pesticide-products/overview-wood-preservative-chemicals#newerwood
    - isothiazolinones can be used as wood preservatives.
        - The most common of these is DCOIT (3(2H)-isothiazolone, 4,5-dichloro-2-octyl), which was first registered in 1996 as a wood preservative for use via pressure treatment, for sapstain protection, and in millwork applications.
            - In 2018, it was also approved for use in utility poles. Further information is available in docket EPA-HQ-OPP-2014-0403.
        - OIT (2-n-octyl-4-isothiazolin-3-one), another isothiazolone, is used as a sapstain wood preservative. Information on OIT is available in docket EPA-HQ-OPP-2014-0160.
        - A mixture of the isothiazolones MIT (2-methyl-4-isothiazoline-3-one) and CMIT (5-chloro-2-methyl-4-isothiazoline-3-one) is used in pressure treatment of wood. Further information is available in docket EPA-HQ-OPP-2013-0605.
- What environmental and human health information does EPA have on compounds like DCOIT, OIT, MIT, CMIT,
- These are registered under FIFRA, and what data exists to be able to generate some aquatic life and/or human health benchmarks.
- How are these alternatives safer for human exposure and environmental and aquatic impacts,
- Is there toxicity testing that has been done for these replacements, and is that data available,
- Industry material safety data sheets indicate that certain compounds are highly acutely toxic to fish and other aquatic organisms,
- There are no EPA aquatic life benchmarks for DCOIT and related compounds,
- NPDES permitting and municipal storm water leaders are asking SLAs for direction and information on these issues for the projected changes with these chemicals,

Dicamba

During the joint session on Monday, when EPA is providing an update (lawsuits, etc..) could they address the following as it relates to 24(c) registrations.

- For many years states used 24(c) registrations to meet local needs with success. When over-the-top uses of dicamba began to cause problems SLAs attempted to tailor use of the material to meet their local

needs again with 24(c) however in 2020 the Agency made clear that section 24(c) of FIFRA was to be used to expand use and not be more restrictive; these registration which are found to be more restrictive would be disapproved. Now in 2021, there are states interested in expanding the use for a period of time after the cutoff (because they feel it may be arbitrary given the season/weather in their part of the country) which on first glance seems to comport with the law and authority available to states under this provision of FIFRA, however that was denied as well.

- If restrictive registrations are a "no" and registrations adding uses are a "no" what does "yes" look like and when might we see it?
- Will this depend on further lawsuits, incidents in the 2021 growing season, etc...

I am sure there is more that I am missing but this should be a good start for the discussions.
Thanks
-Jeff

Jeffrey Rogers

Environmental Program Planner | VA Department of Agriculture and Consumer Services
804.371.6561 (office) | 804.786.9149 (fax) | www.vdacs.virginia.gov/pesticides.shtml