National Pesticide Reform Coalition Meeting with EPA Pesticide Leadership

Thursday, 22 October, 2015 at 1 p.m.
EPA - Potomac Yards South, 2777 Crystal Drive, Arlington, VA
Conference line:
Ex. 6 - Personal Privacy

NGO Participants
American Bird Conservancy – Cynthia Palmer
Beyond Pesticides – Nichelle Harriott
California Rural Legal Assistance Foundation -- Anne Katten
Center for Biological Diversity -- Brett Hartl
Center for Food Safety – Peter Jenkins and Larissa Walker
Ceres Trust -- Kathryn Gilje
Farmworker Association of Florida -- Jeannie Economos
Farmworker Justice -- Virginia Ruiz
Friends of the Earth -- Tiffany Finck-Haynes
Pesticide Action Network -- Emily Marquez
Pollinator Stewardship Council – Michele Colopy and Jeff Anderson
Northwest Center for Alternatives to Pesticides -- Sharon Selvaggio

AGENDA

Neonicotinoids (TFH, LW, PJ, MC, JA, CP)

Many people were surprised when the **PPDC Pollinator Subcommittee cancelled** this week's meeting due to potential conflicts with NAPPC (North American Pollinator Protection Campaign) and HBHC (Honey Bee Health Coalition), as these represent outside institutions with their own separate agendas. Please explain how this decision came about.

Will the **Ninth Circuit Court of Appeals decision on sulfoxaflor** change the way other neonics are reviewed by EPA? If so, what changes might we expect for new registrations? For re-registrations?

What other neonics or neonic-like chemicals are **coming down the pike for registration**?

Please give us the latest estimate as to when we might expect to see the first round of **registration review documents** for imidacloprid and other neonicotinoids.

There is evidence that the **EPA's aquatic reference levels for neonicotinoids** are out of line with the science and with those used by other countries. How and when will EPA revise its aquatic benchmarks for the neonicotinoids?

Several **new studies and reports** raise major concerns about effects of neonicotinoids that EPA may have overlooked, including,

- Williams et al. Honey bee queens highly vulnerable to two neonicotinoid insecticides. *Scientific Reports* 5, Article number: 14621 (2015) doi:10.1038/srep14621
- Botias et al. Neonicotinoid residues in wildflowers, a potential route of chronic exposure for bees. *Environ. Sci. Technol.*, Accepted manuscript • DOI: 10.1021/acs.est.5b03459
- Limay-Rios et al. 2015 Neonicotinoid insecticide residues in soil dust and associated parent soil in fields with a history of seed treatment use on crops in Southwestern Ontario. Environ Toxicol Chem, Accepted manuscript. DOI 10:1002/etc. 3257.
- Center for Food Safety report, *Water Hazard: Aquatic Contamination by Neonicotinoid Insecticides in the United States*," which describes widespread ongoing neonicotinoid contamination in excess of safe levels.

Please indicate whether you will take **regulatory action in response** to these new indications of serious risks?

Please share with us your current thinking about the matter of **re-characterizing neonicotinoid-coated seeds as pesticides under FIFRA**, requiring fully enforceable label warnings and use directions for them, instead of exempting the coated seeds as a "treated article."

What progress can you report on EPA's planned completion of its coated seed **efficacy assessments for corn and other crops**? What is the proposed timeframe for the efficacy analyses on these other commodities? Have EPA plans been affected by the pushback from USDA?

Is EPA planning to remove the 88 active ingredients listed in the EPA document, *Mitigating Exposure from Acutely Toxic Pesticide Products* (docket EPA-HQ-OPP-2014-0818-0003) from all states that do not create State Pollinator Protection Plans? Nearly all of the formulated products of these active ingredients already have bee hazard statements on their labels. The EPA action seems to imply that the current "do not apply to blooming crops or weeds if bees are actively visiting the treatment area" use direction is inadequate protection. This would **suggest that all of those pesticides are mis-labeled** and that the Administrator should take appropriate administrative action against the products. Is that the case and if not, why not?

There is also a State Primacy issue. States can receive Primacy if they have adequate laws and ways to enforce those laws; their laws have to be equal to or more stringent than the federal label. Nearly all State plans so far are based on 24-to-48 hour beekeeper notification -- that is, they would actually allow use of the acutely toxic products on "blooming crops or weeds if bees are actively visiting the treatment area" so long as the notification step in the State plan was met, even if the beekeepers are, for whatever reason, unable to actually move their bees away from the blooming plants. So **States that rely on bare beekeeper notification are reducing the clear and very strict "do not apply" label protection**, something that FIFRA does not allow for. Is this your interpretation of what is occurring and if not, why not?

Incident reporting and biomarkers (CP)
We applaud the efforts underway at EPA to improve its incident reporting systems. But without a biomarker, we will remain in the dark on neonic-related poisonings. We are hoping that the development of biomarkers will go hand in hand with incident reporting upgrades.
What progress has been made to develop a **biomarker for neonicotinoid poisoning** in birds and other wildlife?

Conazole fungicides (CP)
What are the anticipated **timelines** for initiating registration review on the conazole fungicides? The official schedule lists these in quarter #1.
We know that the conazole fungicides have interesting reproductive effects in avian species, and yet the **field relevance of avian reproductive studies** has never really been established (we don't measure the level of residue in the egg so we can't bridge the gap between the laboratory and the wild). We also know that the conazole fungicides are **synergistic** with other pesticides, especially as regards bee toxicity. How will these characteristics be considered in EPA's registration review?

Rodenticides (CP)
The d-CON settlement of May 30, 2014 halted distribution to retailers as of March 31, 2015. It is troubling to see that **brodifacoum-based d-CON continues to be sold** by nearly every major retail outlet.
-Can EPA do anything to get these dangerous products **off store shelves**?
-Do we have any indication of how much **surplus was stockpiled** prior to the December 2014 deadline on production?
-What patterns or changes (if any) can you see in the **incident data** for brodifacoum and other SGARS? For bromethalin or other d-CON replacements?

Herbicides (CP, BH)
Glyphosate, the key ingredient in more than 700 products worldwide, was designated in March as a probable human carcinogen by **WHO's International Agency for Research on Cancer**. But it appears that the US government has been moving in the other direction on glyphosate: raising the allowable tolerance limits, focusing on weed resistance plans so we can keep using massive amounts, and leaving glyphosate out of the last round of USDA food residue testing.
At our meeting with you last May, we learned that the IARC report will not impact EPA's findings. The IARC used different definitions, dose-response assessments, statistical significance, types of tumors, etc. We were told that EPA looked at the same data and is confident in its separate approach.

Last month, the **state of California** announced its intention to list glyphosate as a known carcinogen under Proposition 65, which requires the state to publish a list of chemicals that cause cancer, birth defects, or other reproductive harm.
Does the California decision have any **bearing on EPA**?
What is the expected **timeline** for EPA's risk assessment on glyphosate?

Likewise, how is the registration review coming along for **atrazine**? When should we expect to see the risk assessment for atrazine?

Migratory Bird Treaty Act (BH, CP)
Please give us an update on the **Migratory Bird Treaty Act MOU** between EPA and FWS. Last we heard, the attorneys were "scrubbing it." Any insights on what changes have been made and when it will go into force?

New Avitrol label vs. RED (CP)
At our last meeting, we learned that EPA had just received a proposal from the Avitrol Registrant to address the **discrepancy between the RED (Reregistration Eligibility Decision) and the label instructions for elevated sites.** What changes have been made?
[Background: The new label for Avitrol (required as of Sept. 22, 2014) does not follow EPA's own directive in the 2007 Reregistration Eligibility Decision for the protection of non-target species. The label encourages users to bait at elevated sites, where feasible. And yet for those elevated applications, and for any uses that are not "in populated areas," the label omits to include the mitigation clearly identified in Table 14 of the RED, namely *that the authorized handler must stay on the site during the entire application period*.]

Worker Protection Standard (VR, JE, AK)
We are glad that EPA is moving forward on WPS implementation and note that **cooperative agreements** have already been awarded to NASDA Foundation, AFOP and a UC Davis/Oregon State collaboration. How is EPA going to make sure that these organizations 1) **involve farmworker organizations and workers** in development of materials and training programs; and 2) develop materials and programs that meet the needs of a workforce that is ethnically and geographically **diverse**, and working in many different crops?

Advocates have been disappointed by **inadequate enforcement of the current WPS**, including low penalties and advance notice of inspections. Going forward, how will EPA ensure that new protections (such as those pertaining to minimum age of pesticide handlers, annual safety training, REIs and anti-retaliation) are adequately enforced by states? What steps is EPA taking to monitor state enforcement actions?

International Trade
If ratified, how do the **Trans-Pacific and Trans-Atlantic Trade** agreements affect EPA autonomy and ability to effectively regulate pesticide use in the US? To what extent do these agreements force the US to follow the lowest-common-denominator approach to pesticide registrations, using the **most lax standards** of participating nations?