

Tribal Pesticide Program Council Executive Committee
Monthly Conference Call
11/18/20
Call Notes – Draft

Join by Zoom: <https://nau.zoom.us/j/89303644703>
or phone: 312-626-6799 or 888-788-0099 (toll free)
Meeting ID: 893 0364 4703
Password: 186136

Roll call:

Tribes (15)

- Jasmine Brown, Confederated Salish and Kootenai Tribes
- Larry Scrapper, Cherokee Nation
- Nina Hapner, Kashia Band of Pomo Indians
- Eric Gjevre, Coeur d'Alene Indian Tribe
- James Williams, Muscogee Creek Nation
- Tony McCandless, Gila River Indian Community
- Carol Kriebs, Kootenai Tribe of Idaho
- Dana Adkins, Chickahominy Indian Tribe
- Gerald Wagner, Blackfoot Tribe
- Ted Puetz, Ak-Chin Indian Community
- Andrea Mitchell, Cocopah Indian Tribe
- James Jackson, Muscogee Creek Nation
- Casey Johnson, Gila River Indian Community
- Earl Bautista, Tohono O'odham Nation
- Dorla Tartsah, Kiowa Tribe

Tribal Organizations (1)

- Africa Avilos, Inter-Tribal Council of Arizona

EPA (11)

- Loren LaPointe, EPA/OPP
- Peter Earley, EPA/Region 9
- Rachel Ricciardi, EPA/OPP
- Amanda Hauff, EPA/OCSP
- Helene Ambrosino, EPA/OECA
- Aidan Black, EPA/OPP
- Carolyn Schroeder, EPA/OPP
- Meg Hathaway, EPA/OPP
- Ryne Yarger, EPA/OPP
- Kaitlin Picone, EPA/OPP
- Emily Schmid, EPA/OPP

Other (3)

- Mehrdad Khatibi, Institute for Tribal Environmental Professionals
- Mark Daniels, Institute for Tribal Environmental Professionals
- Suzanne Forsyth, University of California Davis Continuing and Professional Education

1. Welcome/Introductions

Tony McCandless from Gila River Indian Community facilitated the roll call. Attendance was logged throughout the call for the 16 tribes and tribal organization representatives.

2. EPA Updates (Amanda, Rachel, Ryne, Meg, Loren)

Improvements to pesticide Application Exclusion Zone (AEZ) requirements: Ryne Yarger spoke about the recent changes to the AEZ requirements in the final rule published October 30, 2020. We can think of the AEZ as a halo around the application activity, intended to keep people not participating/not properly trained out of the application zone. After the application the AEZ no longer exists, but the restricted entry area stays behind. Under the original (2015) standards, the AEZ could extend beyond boundaries of the establishment, and people raised issues with difficulty in enforcing that. Under the new rule, the modified AEZ only applies within the boundaries of the establishment. EPA also modified the rule to allow an exception for people working within easements inside the establishment boundary, though the “Do Not Contact” provision still must be followed. Other changes included clarification that applications suspended due to someone entering the AEZ can be resumed after the individual leaves the AEZ. Also there is an immediate family exemption allowing them to shelter in place inside closed buildings/shelters within the AEZ. Finally, the new rule simplifies and clarifies AEZ criteria to determine the AEZ distance of either 100 or 25 feet based on application method and spray height. Ryne noted that various types of outreach and support efforts are planned for the coming months, and answered a few clarifying questions from meeting attendees.

2020 dicamba registration decision: Meg Hathaway gave details about the recent dicamba registration decision, and noted that the regulations are all online in the www.regulations.gov website (search for docket EPA-HQ-OPP-2020-0492). Three products were registered, including two new products (Xtendimax and Engenia), and one existing registration that was granted an extension (Tavium). The registrations are good for five years, and only allow for use on dicamba-tolerant cotton and soybeans. Additional changes in the decision include revisions to the in-field buffer distances, mandatory use of a volatility reducing agent (VRA; a pH-buffering agent), the addition of calendar cutoff dates for applications, and an updated Endangered Species Act (ESA) finding that informed the buffer distances. She also noted that the labels allow both over-the-top and pre-emergent use on the two crops mentioned. Cutoff dates are different for cotton and soybeans: for soybeans the products cannot be applied after June 30, and for cotton the cutoff is July 30. All applications must include a VRA in the tank mix, but operators have flexibility in which one(s) they can use (EPA doesn't regulate those products directly, but did establish a protocol by which those compounds can be tested for that use). Each manufacturer is required to maintain a list of acceptable VRAs for use with its dicamba product.

Jasmine Brown of Confederated Salish and Kootenai Tribes asked why calendar dates were chosen for the cutoff rather than relying on temperature criteria? Meg responded that the calendar dates were chosen to create a clearly understood rule that relates to environmental criteria such as temperature. Nina Hapner of Kashia Band of Pomo Indians pointed out that the trend for increasing temperatures may make these cutoff dates less valid in the future, and asked if they will be revisited at some point. Meg noted that the registrations in the decision are valid for 5 years, and the cutoff dates could be modified after that.

Meg gave some additional details about the decision. She noted that the required buffer distances differ depending on whether or not the county has listed endangered species concerns, as well as between down-wind and other directions. An allowance was made this year for a reduction of the

downwind buffers if certain qualified hooded sprayers are used for soybean applications (not for cotton). The labels specify that the products are only for use by certified applicators, who will also need an annual dicamba-specific training. Recordkeeping requirements have also been expanded since the 2018 registration (with details listed on the labels). Jasmine noted that these products are registered federally, but not all states have registered them yet, so double-check with your states before using them.

Toxic Substances Control Act (TSCA) Section 6 rulemaking: Amanda reminded the group that the Agency is initiating consultation & coordination for methylene chloride and 1-bromopropane. They finished the risk evaluation and identified conditions that present unreasonable risk, and are now looking for input to develop proposed rules so that the chemicals will no longer present an unreasonable risk. There have already been two sessions on November 12th & 17th, with the overall consultation period running from October 13, 2020 through January 8, 2021. Tribes have the right to request tribal consultation officially if they would like.

Jasmine asked what kind of products contain methylene chloride. Amanda listed a number of them, including paint removers, solvents used in industrial/commercial facilities, cleaning/degreasing, automobile care products, and others. 1-bromopropane is used in solvents for dry-cleaning and in some other industrial or commercial products. The TPPC Risk Assessment workgroup may want to dig in a bit closer and give some feedback. Tony McCandless of Gila River Indian Community asked Amanda to clarify that all these uses for the chemicals fall under TSCA, not FIFRA, which she said is correct. Tony asked if the EPA had shared this information with the Regional Tribal Operations Committees (RTOCs). Amanda replied that they've done some preliminary outreach, but not necessarily to all the RTOCs yet.

Loren LaPointe Tribal Pollinator Protection update: Loren said she was picking up the pollinator protection portfolio for Tribes. She had some things to ask of the group today, and will follow up by email. She noted that there used to be a TPPC pollinator protection workgroup that met approximately monthly, which stopped in February of 2019, and she proposed starting it up again. She expects the meetings would be similar to these (TPPC) meetings, but likely separate from them. There could be both a guest speaker (outreach component) and a discussion component, and she'd like to try to focus on a couple primary ideas for projects the workgroup could work on. She asked for feedback from the Council.

Jasmine asked if Loren needs a list of the old workgroup members, or if she intended to solicit new ones. Loren responded that it could be open to anyone, regardless of whether they participated in the past. Jasmine noted that she's always felt strongly about pollinators, and that Jim Mossett and Joe Herrera were big contributors to the group previously. Participation faded away at the end, but she feels it's worth a try to get it started again. Loren noted that she will be on maternity leave in about a month, so if meetings get started during that time someone will cover for her while she's out. Nina also would like to see the group come back around, and pointed out that there are lots of issues coming down the line related to pollinators, including proposed laws, murder hornets, and others. She would like to know where to get notification on local pollinator issues, as there are resources out there but not always easy to find. Nina also wants to be sure regulators understand issues related to traditional plant gathering & such, rather than just focusing on pollinators in the context of agriculture. Amanda stated that the EPA wants to provide a product (or two) that would be useful (such as a guidebook to identify pollinators, an examination of issues around chemicals and pollinators, etc.). Jasmine noted that she would like to see more than just a guide – she'd like to know how to monitor for pollinators without killing a thousand native bees to get the required data. Given the interest expressed for the workgroup, **Loren will work with Nina and others on the Council to get the group started up again.**

3. TPPC Administrator Updates (Mark, Mehrdad)

TPPC website transition & possible upgrades in the future: Mark reminded the Council that we were asked to replace the current site as we take over the Coordinator role, due to security concerns with the existing site. We have hired web designers and for now they've replicated the existing site more or less exactly (Mark toured the new site briefly); the site will go live and replace the old one before the end of the year. Mark also noted that the web designers have some ideas about how the site could be modified to make it easier to navigate, more visually appealing, and engaging to visitors, and asked if the Council is interested in setting up a workgroup to meet with the designers and look at possible ways to redesign the site in the future.

Tony said he likes the idea of a workgroup to make the site more useful. Africa agreed that it would be nice to redesign it to make it more user friendly, add additional resources, and maybe get feedback or suggestions from visitors. Nina suggested adding the recently released Status Report to the site, and noted that she has some TPPC group pictures that would be good to post as well. Mark responded that he would absolutely like to add the Status Report to the site soon, as a way of promoting the document (and then other resources such as newsletters, emails, etc. could link to it on the site). Jasmine suggested that **ITEP send out an invite to TPPC soliciting interest in joining a website redesign workgroup**. Amanda asked if EPA staff can help as well, Jasmine said yes, certainly! Jasmine said she'd love to make the site more welcoming and fun for new members. She would also love to see a kids' page added to the site.

Semi-annual meeting considerations: Mark noted that due to the grantee transition and the Covid pandemic we weren't able to have a semi-annual meeting this Fall, so instead ITEP proposes to hold a virtual full-council meeting in the Spring (March or April). This could be followed by a more focused meeting for the EC in the summer (possibly a training session on strategic planning), and then we could resume the regular semi-annual schedule in the Fall with another full-Council meeting (in person or virtual, depending on the pandemic situation).

For the Spring meeting, ITEP would like to ask for suggestions of speakers/presenters so we can start putting together a schedule (Mark also noted that since this one will be virtual, we can feel free to think "outside the box" and consider inviting people who might not be able to travel to attend a regular in-person event). Mark also asked Council members to think about anything they might like to highlight regarding their Tribes' programs at the Spring meeting. With regard to the dates for the meeting, **ITEP will work with the EC leadership and EPA to find a week that works best for the Spring meeting, then bring it to the larger group to be sure there are no major conflicts** before we move ahead with planning.

Jasmine noted that in past in-person meetings the group has run out of time, so there had been talk about extending future meetings to include another half day to allow additional time for other folks to speak. There had also been discussion about possibly holding another meeting (in addition to the two regular biannual meetings) if there's a pressing issue. Nina asked when a strategic plan is expected to surface. Amanda replied that a strategic planning session is typically done for each meeting. Nina thinks the TPPC is often behind the ball on this, and she would like to see the group get ahead of it. Amanda says we can talk about what's in the president's budget, and work together to develop a high-level powerpoint to engage with senior leadership and introduce the status report to them. Nina stated that the TPPC needs to look ahead and focus on upcoming issues now that the status report is done. She also let Mark know that **Suzanne kept a list of items for upcoming**

meetings, and suggested ITEP take a look at that. Amanda said she can work with ITEP on developing the agenda for the Spring meeting, and suggested that we could do multiple half days instead of whole days for the virtual meeting (Nina agreed with this idea). Breakout sessions and polls were also suggested by Council members to enhance participation at the meeting.

Other items: Mark stated that he would be reaching out to EC members in the coming weeks to see if they wanted to set up a time to talk, so ITEP can get to know folks better and more fully understand their concerns and priorities. If anyone else would like to share their thoughts with us, please feel free to reach out at any time.

Mark also reminded the group that ITEP has proposed producing a quarterly TPPC newsletter, to showcase tribal pesticide programs and bring attention to pesticide-related EPA actions and consultations, upcoming meetings and trainings, etc. This can be distributed to the TPPC listserv as well as other listservs that ITEP maintains to reach a broad tribal audience. He suggested highlighting the Status Report in the first edition, summarizing the key findings and linking to the report itself (on the new TPPC website), as a way of getting it out to a wider audience. Mark also asked folks to think about material for future editions, and let us know if they have a story they'd like to highlight in the newsletter.

Jasmine said she strongly supports the quarterly newsletter idea, noting that FIFRA issues are almost never mentioned in the many emails she gets, and that the newsletter could cover a number of issues such as Covid-effective cleaning products, dicamba, and whatever else is of recent importance. The newsletter could also be used to get additional feedback about issues the group hasn't considered previously. Mehrdad also mentioned that the newsletter can be a good way to get the word out beyond folks who go to the website, and potentially attract more people to join the TPPC. It can include time-sensitive updates, and a resources section covering upcoming trainings, grants, etc. ITEP will start working on it, and hope to have a draft to share in the December meeting.

4. Status Report review (Suzanne)

The Status Report was released on November 2, and shared in both lower and higher resolution formats (for emailing vs. printing). She sent out a reminder email on November 9 with a deadline to request printed copies. She received about 8 requests, totaling about 150 copies, and will also be sending some copies to ITEP to distribute at future meetings and such. If anyone else wants printed copies, they should click on the link in the email she sent and fill out the form (using a street address, not a PO box) by the end of this week. She's hoping to ship out the printed copies by end of first week in December.

A couple of TPPC members asked for the link to be re-sent. Eric Gjevre of the Coeur d'Alene Indian Tribe asked how many copies ITEP will have. Suzanne said she was thinking 200, and Eric said that sounds like a good number. Mehrdad thanked Suzanne (and Bob and others) for all their work on the report, and noted that it will be tremendously helpful for ITEP as we move forward in working with the TPPC.

5. Discussion on certification and training issues (Jim Mossett)

Jim was not present on the call. Jasmine noted that Jim has his own Certification & Training plan, but some of the issues he wanted to discuss may affect Tribes who are under the federal plan. Jim and Jasmine were not sure whether to ask ITEP to provide an issue paper on the matter, but would like to bring it to the whole council for discussion first. We will put the item on the December agenda,

preferably closer to the top next time. Jasmine will also follow up with him to try to get his concerns noted in case he can't make the December meeting.

6. Other Issues/Concerns/Hot Topics (All)

Jasmine noted that Amanda had mentioned the Tribal Science Council (TSC) meeting, and asked if they would like a TPPC member to present at the meeting (Fred Corey used to do it in the past). A lot of the issues that group talks about concern brownfields, which often contain residual pesticides. Amanda explained that the TSC meeting will be held virtually this year on December 1-4. The agenda is already pretty much worked out, but anyone is welcome to join. Amanda will check back with the groups to see if they would like someone from the TPPC to speak.

There was also some discussion about the TPPC listserv, and the fact that ITEP currently can't post to it. Nina thought ITEP should manage it. Jasmine said that in her last communication with Fred he said he'd go with whatever the EC wanted to do on the matter. It was agreed that ITEP should manage the listserv, so **ITEP will work with Suzanne to get the most recent listserv list and create a new version on ITEP's system.**

7. Next TPPC Conference Call: Wednesday, December 16, 2020, 2:00-4:00 p.m. EST

Is the December 16th date good with everyone? It works for Nina. Jasmine said that since it's so close to Christmas we could potentially move it up a week to make it more convenient for others, though it works fine for her. After some discussion it was agreed to leave it as-is.