

TRIBAL PESTICIDE PROGRAM COUNCIL
MONTHLY EXECUTIVE COMMITTEE CONFERENCE CALL

Wednesday, February 21, 2024

Call Notes - Final

Roll call:

Tribes (22)

- Alexis Bruce, Saginaw Chippewa Indian Tribe
- Brenda Pusher-Begay, White Mountain Apache Tribe
- Brittani Clairmont, Confederated Salish and Kootenai Tribes
- Camilo Perez, Quechan Indian Tribe
- Dan Hoyt Gila River Indian Community
- Dorla Tartsah, Kiowa Tribe
- Bob Betwith, Kiowa Tribe
- Eric Gjevre, Coeur d'Alene Indian Tribe
- Gerald Wagner, Blackfeet Tribe
- James Jackson, Muscogee Creek Nation
- James Williams Muscogee Creek Nation
- Jasmine Brown, Confederated Salish and Kootenai Tribes
- Jeremy Phillips, Salt River Pima-Maricopa Indian Community
- Jessica Raspitha, St. Regis Mohawk Tribe
- Jim Mossett, Three Affiliated Tribes
- Jake Luger, Standing Rock Sioux Tribe
- Judy Stillwell, Choctaw Nation
- LaShawnia Tso, Tohono O'odham Nation
- Nina Hapner, Kashia Band of Pomo Indians
- Renee Keezer, White Earth Reservation
- Ted Puetz, Ak-Chin Indian Community
- Victoria Atencio Nambe Pueblo

Tribal Organizations (4)

- Ann Wyatt, Klawock Cooperative Association
- Diania Caudell, California Indian Basketweavers Association
- Mark Daniels, Institute for Tribal Environmental Professionals
- Melanie Kirby, Institute of American Indian Arts

EPA (7)

- Bill Eckel, EPA
- Dana Friedman EPA
- Helene Ambrosino, EPA/OECA
- Emily Ryan, EPA/OPS/OCSP
- Melissa Grable EPA
- Linsey Walsh, EPA/OPS/OCSP
- Rebecca Lazarus, EPA EFED

Reported in advance as absent (1)

- McKenna King, Institute for Tribal Environmental Professionals

1. Tribal Caucus

2. Welcome/Introductions

Mark Daniels, Institute for Tribal Environmental Professionals, welcomed everyone and facilitated roll call.

3. EPA Updates

a. TPPC Spring Meeting Attendance: Regional Tribal Contacts

Linsey Walsh, EPA/OPS/OCSP, shared that she recently met with the regional tribal contacts, some of whom are interested in attending the TPPC spring meeting in person or virtually. Their goal in attending would be to listen in on what is of interest to TPPC members and potentially provide information as questions come up. Linsey asked TPPC members if they would like them to attend and to **let Linsey know if you feel strongly one way or the other.**

b. RUPs in Indian Country Training

Emily Ryan, EPA/OPS/OCSP, shared that the quarterly private applicators of restricted-use pesticides (RUPs) in Indian Country training will be held next week. Training is applicable to those who wish to apply RUPs in a variety of settings such as casinos and private land. The goal of the training is to certify applicators. Ted Puetz, Ak-Chin Indian Community, ask if this training fulfills the core manual requirements which are somewhat of a prerequisite for many applicators. Emily responded that the training is a standalone training and does not fulfill other requirements.

Jasmine Brown, Confederated Salish and Kootenai Tribes, asked, “if you apply RUPs to produce an agricultural commodity on land you or your employer owns or rents why aren’t the employers considered commercial or government or their employees?”. **Emily will clarify this question with colleagues at the Certification and Worker Protection Branch and follow up with Jasmine.**

c. New Attorneys in OECA Office of Civil Enforcement

Helene Ambrosino, EPA/OECA, shared she will be joining for part of the meeting in person. She announced that there are two new attorneys in the OECA office of civil enforcement who would like to attend the TPPC Spring Meeting virtually to get involved in tribal issues and to serve as a resource for enforcement, compliance, planning issues. **Linsey will make sure the meeting invitation is sent to them.**

4. TPPC Administrator Updates

a. Spring Meeting Update

The Spring Meeting is 2 weeks away. Hotel accommodations have been confirmed and flights are booked for all members attending in person. A draft agenda has been sent out and the final agenda will be sent out next week with versions for each of the different time zones.

5. Rodenticide Regulation Update

Staff from EPA's Pesticide Review Division and Environmental Fate & Effects Division presented on the agency's Endangered Species Act (ESA) review of rodenticides and proposed mitigation requirements for rodenticide use.

a. Registration Review Timeline

Melissa Grable, OPP/PRD, Provided an overview of the Registration Review Timeline

- November 2022: The Proposed Interim Decisions (PIDs) for rodenticides were completed, the next step will be an amended PID.
- November of 2023: Draft Biological Evaluation (BE) was released.
- November of 2024: Expect to complete the final Biological Evaluation (BE).
- 2025:
 - Early 2025: Amended PIDs are expected to be completed.
 - Later in 2025: Interim Decisions will be made.
- Label changes will be made following Interim Decisions. Additional label changes may be made after Biological Opinion has been confirmed.

Rebecca Lazarus, EPA EFED, provided a background on rodenticides, an overview of the BE, and affects determinations.

b. Rodenticide Background

Eleven different active ingredients were evaluated in the draft BE and are designated into classes based on modes of action First-generation Anticoagulants, Second-generation Anticoagulant, and Non-anticoagulants or other. Type of exposure include direct consumption of bait (primary exposure) and consumption of poisoned animals (secondary exposure). All 11 rodenticides have different risk pictures, some of which have greater secondary poisoning risks. Anticoagulants specifically pose a greater secondary poisoning risk due to long half lives, persistence in the target pest tissue, and toxicity over low doses. Taxa of concern are vertebrates: mammals, birds, reptiles, and amphibians. Main target pests are small mammals (rats, mice, squirrels etc.). The 11 rodenticides analyzed can be applied to pest populations in 3 main use patterns; bait box/bait station, loose bait, and broadcast application of loose bait.

c. Biological Evaluation (BE)

The BE relies solely on existing approved labels. PID mitigation strategies are not being considered in this analysis. The rodenticide mitigation strategy will focus on reducing exposure of listed species. Draft BE groups 11 rodenticides by mode of action, use pattern, toxicity, and nuances associated with exposure. In total, the BE considered 1,784 total species and 904 critical habitats. The US Fish and Wildlife Service (USFWS) was regularly involved to discuss analytical approaches and tentative conclusions.

d. Effects Determinations

Effects determinations were made at the individual level and predictions of the potential of future jeopardy were made for the species at the population level as well as potential likelihood of future adverse modification to critical habitats.

No Effect Determination (NE)

Determined “no effect” for 88% of all species meaning exposure is not reasonably certain to occur. NE determinations were made at a taxa level; all aquatic species and all terrestrial and wetland plants that do not rely on small mammals.

May Affect Determination (MA)

The remaining species were given a “may affect” determination.

Not Likely to Adversely Affect Determination (NLAA)

MA determinations were further categorized into the NLAA determination. These species were evaluated as being affected by the rodenticides that could be considered insignificant or effects were considered discountable. Of total species evaluated, 4-11% were categorized in this way depending on the chemical and the application method and 1% of critical habitats.

Likely to Adversely Affect Determination (LAA)

The remaining species were determined as LAA. This determination signifies that based on the BE it is reasonable to affect at least one individual animal may be exposed to the pesticide at a sufficient level to have an adverse effect resulting in “likely take” which includes unintentional harm or death. Because LAA determination is triggered by one individual animal, it does not necessarily mean a pesticide is putting a species in jeopardy. Of all species and critical habitats evaluated, 8% of species and 4% of critical habitats were determined as likely to adversely affect, depending on the chemical and the application method.

e. Summary

It was predicted that based on current labeled uses of the 11 rodenticides this use may lead to the potential likelihood of future jeopardy for less than 4% of listed species and potential likelihood of future adverse modification of less than 1% of critical habitats associated with those species. USFWS and the National Marine Fishery Service are responsible for making the final jeopardy adverse modifications in their biological opinion.

f. Draft Mitigation Strategy

Melissa provided an overview of the draft mitigation strategy.

The BE includes a draft rodenticide strategy which identifies mitigation measures that focus on reducing exposures so that predictions of potential likelihood of a future jeopardy or adverse modification would be unlikely. Mitigations are intended to minimize take of species that were

determined as LAA. Mitigation measures are specific to active ingredients and use patterns. EPA built on previous mitigation proposals from the 2022 PIDs and developed a list of mitigation measures to be considered in the draft. Upon finalizing the BE a definitive list of mitigation measures will serve as the final rodenticide strategy.

Some mitigations apply broadly and will be included on the label such as packaging and user restrictions, application restrictions and requirements, use clarifications, post application follow up such as disposal of bait, carcass searches and reporting to EPA about dying and dead animals. Geographically and seasonally specific mitigations will be found in BullentinsLive2.

There were 22,000 public comments on mitigations proposed in the PIDs. Comments will be evaluated to determine BE final changes. EPA is interested in receiving feedback on the effectiveness, feasibility, and enforceability of proposed mitigation measures. EPA, USFWS, and USDA will collaborate in finalizing the BE. Once the final BE is complete, EPA will initiate consultation with the USFWS. During formal consultation USFWS will use EPA's affects, determinations from the be to inform their biological opinion, which will include the final determinations of whether a pesticide jeopardizes, listed species, and or adversely modifies the critical habitat.

g. TPPC Rodenticide Strategy Comment

Mark shared that the TPPC will be submitting a formal comment. A majority of TPPC survey respondents supported the change of prohibiting scatter and broadcast applications. A majority of survey respondents supported requiring carcass searches 1- 2 days after application and the collection and disposal of carcasses 18 inches below the surface.

h. TPPC Member Questions

Jasmine and Nina Hapner, Kashia Band of Pomo Indians, asked how EPA reaches a no effects determination. Rebecca responded that no effects determination is when there are no direct effects to the species or no effects to the species' prey, pollination, habitat, or dispersal. This included taxa such as plants that don't depend on small mammal pollinators and others such as fish and other aquatic invertebrates.

Jasmine asked how EPA determines if listed species are present at a specific time of year. Analysis is done using a spatial overlap of the species range across all times of year. Additional refined nuances of the species will be considered in final determinations.

Ted asked about species that may be added to ESA list soon or that are exiting. USFWS will be informing on these species. The analysis currently includes some of the proposed threaten and endangered species. During the consultation process, USFWS and the National Marine Fishery Service will identify any species that may have dropped off or been put back on.

Ted asked how data on tribal lands is collected. Melissa responded that regional USFWS offices would be collecting this information. The overlap analysis of species

range relies on USFWS GIS files. Jasmine suggested sampling for Environmental DNA in areas rodenticides will be applied to document presence and absence of threatened and endangered species.

Jasmine asked what will be required of the applicator's communication with USFWS. This will be determined based on the biological opinion from USFWS. This will inform if communication will be required and if it is, what that communication will look like.

Dan Hoyt, Gila River Indian Community, asked who is collecting potential impact data on those such as small farmers and homeowners who may be impacted financially if they are required to hire a certified applicator or by issues such as disease or disease surveillance if rodent populations are left unchecked. Melissa responded that many comments in the docket specifically addressed this. The Biological and Economic Analysis Division is looking at these potential impacts. The amended PID will include this information in the response to comments. Bait stations will be available for homeowners but what is proposed in the PID is that they will be non-refillable.

6. Tribal Caucus Report-out

No updates noted.

7. NTC Updates

Gerald Wagner, Blackfeet Tribe, provided NTC updates. They are working with tribal program groups and getting priority and budget documents in to be able to present to the headquarters contact. If changes were made from last year, he recommends highlighting these in a different color or putting them in a side note to ensure changes and new priorities are clear during review. **A webinar meeting will occur in mid March; he will let the TPPC know of the exact dates when it's set.**

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

Mark shared an update for Africa Dorame-Avalos, Inter-Tribal Council of Arizona (ITCA). The ITCA is doing a tribal pesticide inspector training in September of this year. Email Mark or Africa or visit ITCA website to find information on this training. Africa has been designated as the tribal co-lead for the RTOC pesticide working group.

9. Next TPPC Conference Call: Wednesday, April 17, 2024, 2:00-4:00 p.m. EST*

* No March call due to our semi-annual meeting

* **(Yellow highlighting** in the notes above indicates action items)