

**PESTICIDE REVIEW COUNCIL MEETING**

**MINUTES**

**January 13, 2010**

**Austin Cary Memorial Forest Conference Bldg**

**Institute of Food & Agricultural Sciences**

**University of Florida (UF/IFAS)**

**Gainesville, Florida**

**MEMBERS PRESENT:**

Dr. Mel Kyle, Agrichemical Industry Representative

Dr. Keith Tolson, (Chair, PRC) Toxicologist

Dr. Dennis Howard, FL Department of Agriculture and Consumer Services (FDACS)

Dr. Mark McLellan, IFAS/UF

Mr. Richard Pfeuffer, South FL Water Management District (SFWMD)

Dr. David Krause, State Toxicologist (FDoH)

Dr. Brian Katz, (Vice Chair) Hydrologist

Mr. Rick Hicks, (Secretary) FDEP

Mr. Joe Gaudino, Environmental Groups

**MEMBERS ABSENT**

Mr. Dave Eggeman, FFWCC

Mr. Gary Reeder, Grower Representative

**OTHERS PRESENT**

Mr. Joshua Craft, FFB

Mr. Charlie L. Clark, FDACS

Dr. Davis Daiker, FDACS

Mr. Tony Di Bartolo, FDACS

Ms. Patty Lucas, FDACS

Ms. Teresa Rygiel, FDACS

Ms. Jeannie Economos, FAF

Ms. Mary Hartney, FFAA

Mr. Eddie Ingram, Bayer CropScience

Mr. Eric Sespico, FDACS

Ms. Ellen Thomas, Dow AgroSciences  
Mr. Richard Pont, US EPA  
Mr. George Wicheterman, Lee County Mosquito Control  
Mr. Erich Hobelmann, Dow Chemical Co.  
Mr. Andreas Coveney, FDACS  
Mr. Sam Trickey, NFWM  
Mr. Bert Perry, NFWM  
Mr. James Cooper, FDACS  
Mr. Joel Jackson, FGCSA  
Mr. Bruce Nicely, FDACS  
Mr. Andy Rackley, FDACS

Chairman Keith Tolson opened the meeting at 9:00 AM, asking Council members and other attendees to introduce themselves. Dr. McLellan welcomed participants to the Austin Cary Memorial Forest Conference Building. The Council voted to accept the minutes of the September 24, 2009 as drafted and agreed that the next meeting date would be May 11, 2010 in Gainesville.

Legislative and budget updates. Dr. Tolson invited Mr. Anderson Rackley, Director, Division of Agricultural Environmental Services, Florida Department of Agriculture (FDACS) to update the Council on legislative and budgetary matters relating to the Department's pesticide program. Mr. Rackley noted that FDACS anticipates additional legislative budget cuts due to lagging state revenues, however, the Department's increased reliance on pesticide program fees will help to offset some of the cuts. Mr. Rackley does not anticipate that the Department will be seeking comprehensive changes in Florida pesticide law this year, due to external factors. A proposal to expand the terms of Council officers from one year to two years is among statutory amendments the Department plans to seek in the future. During questions, Dr. Dennis Howard noted that FDACS is pursuing rulemaking to implement supplemental pesticide registration fees to support analytical work of the Chemical Residue Laboratory (Division of Food Safety). Responding to another question, Mr. Rackley noted that FDACS is exploring various legislative and policy options with the Florida Department of Environmental Protection (FDEP) and the Florida Fish and Wildlife Conservation Commission (FFWCC) to streamline regulation of pesticide applications to water via the National Pollution Discharge Elimination System (NPDES).

Dr. Mark McLellan summarized the budgetary forecast for the University of Florida. He agreed with Mr. Rackley that further cuts were anticipated. Over the past 40 months, a cascading, cumulative 25% cut has been sustained in all spending, and this is having dramatic impacts on the need for researchers at the University of Florida Institute of Food and Agricultural Sciences (IFAS) to become more entrepreneurial and seek outside sources of funding. Dr. McLellan also observed the challenges of a changing social contract in food production in the United States: rather than expecting that agriculture would produce a stable, safe food supply as in the 1930s and 1940s, citizens now are

placing demands on high-cost, boutique food supplies, without understanding how food is produced and while hunger is still a global problem. This places growers in a real dilemma. In closing, Dr. McLellan characterized as a “game-changer” the U.S. Environmental Protection Agency’s (USEPA) recent court-driven, non-scientific requirement for a single numeric value for nutrients in water resources. Unless a solution is found, this will have profound changes in production agriculture in Florida.

Stewardship award. Mr. Rackley presented the FDACS Pesticide Stewardship Award to Dow AgroSciences in recognition of their proactive stewardship program for the structural fumigant, Vikane (sulfuryl fluoride). Ms. Ellen Thoms accepted the award on behalf of Dow AgroSciences.

Soil Fumigants. Dr. Dennis Howard and Mr. Bruce Nicely (FDACS) briefed the Council on the implementation of new USEPA label requirements to mitigate potential exposure of workers and bystanders to soil fumigants. The requirements were developed during the Agency’s Re-registration Eligibility Decision (RED) of the fumigants methyl bromide, metam sodium, metam potassium, chloropicrin, and dazomet (iodomethane is also affected). Dr. Howard’s presentation focused on the challenges Florida is facing in implementing the complex, new USEPA requirements, and in particular on the label review requirements facing FDACS. The Department expects that the label reviews will take months and is making plans to synchronize the release of the new labels, upon acceptance for registration in Florida.

Mr. Nicely explained the need for training of applicators and compliance inspectors on the new fumigant label requirements. Most of the applicators of fumigants in Florida are private applicators who have not taken core training in soil fumigants. Under the RED, all of the new soil fumigants will be classified as restricted use pesticides, and will require additional training. The labels will be released by the USEPA in two phases, with the second phase focusing primarily on requirements related to buffer zones. The USEPA has assigned training responsibility to the registrants, with implementation to begin in the second phase. However, FDACS believes that training is also needed in the first phase, because of scope and complexity of the new requirements. Not only applicators, but also handlers will need to be trained. The Department is working with IFAS, the Florida Fruit and Vegetable Association, the Florida Fertilizer and Agrichemical Association, the Florida Farm Bureau Federation and fumigant registrants in an attempt to coordinate training programs. IFAS has already taken the initiative to develop some training materials. The Department is also engaging the USEPA in discussions to support training development by the state. In follow-up discussion, Dr. Krause noted that it will be important for County Health Departments to be aware of the new soil fumigant requirements, since they may be responding to complaints and questions. FDACS offered to share information for a future DoH coordinating call with County Health Departments.

#### NPDES Permits for Pesticide Applications

Dr. Davis Daiker (FDACS) provided an update on the EPA’s progress in developing a pesticide general permit. The need for this permit came in response to the 2009 6th U.S.

Circuit Court decision that applications of pesticides in, on, or near water would require NPDES permits and be subject to additional requirements under the Clean Water Act.

Since the last PRC meeting, the USEPA has continued to develop a pesticide general permit and to conduct outreach to both FIFRA and Clean Water Act agencies. In October, the Agency hosted a well-attended public webinar to present their approach to the permit. EPA described the core elements of the permit, each of which is required under the Clean Water Act. Elements include the Notice of Intent, Effluent Limits (Technology-based vs. Water-Quality based), Monitoring, Recordkeeping, and Reporting. (For further detail on EPA's approach to each of these elements, please consult slides from Dr. Daiker's presentation.)

EPA has also continued to regularly hold conferences with a core workgroup of state agencies that was formed in February. These conferences provide a recurring opportunity for state input to the federal process as the permit moves forward. In addition, FDACS, FDEP and the FFWCC continue meet to discuss Florida's general permit, and to discuss any legislative changes that might need to be made to ensure the proper authority to issue such permits.

According to EPA's timeline, the federal permit will be proposed in April of 2010. FDEP should be developing and proposing their permit using a similar timeline, with the permit to be in place by April 2011. Discussion followed.

USEPA Pesticide Performance Partnership Grant Funding Issues. Mr. Rackley described to the Council challenges that FDACS is facing in its regulatory relationship with the USEPA. The level of USEPA grant funding to Florida has remained relatively steady whereas the scope of program responsibilities the Agency has delegated to FDACS has greatly increased. The new federal soil fumigant requirements and NPDES permitting are two examples of two programs that have placed new burdens on the state without providing commensurate funding and in seeming disregard to the current budgetary crisis Florida is experiencing. As a result of this untenable situation, FDACS has engaged the USEPA in a frank discussion of the need for the Agency to adjust their expectations, increase their flexibility, and/or provide adequate resources to the state program. A number of other states have joined in this discussion. Discussion followed.

Topics for Future Consideration by the Council. Dr. Tolson suggested that the Council try to think more proactively about emerging pesticide issues. He referred to a list of issues the Council prepared in September, 2007, as an example, and indicated that it would be helpful for the Council to consider emerging issues on an annual basis. He requested that the Council members examine the 2007 list and consider topics and speakers for discussion at future meetings.

Dr. Krause (Department of Health) asked if the Council was aware of or interested in a recent law that authorizes the Department of Professional Business Regulation (DPBR) to license mold assessors and remediators and set standards for their qualifications. Richard Pont (USEPA) noted that many states exempt such operations from licensure under

pesticide rules and laws. Bruce Nicely indicated that the FDACS Bureau of Entomology and Pest Control exempts from licensure control non-wood destroying fungi in structures. Dr. Tolson requested that Dr. Krause contact DPBR to explore the possibility of a presentation at a future meeting.

In response to a suggestion from Mr. Joe Gaudino, Dr. Howard offered to check with the USEPA about outreach messages to Health Departments and others on the new soil fumigant requirements.

Public Comment. Ms. Jeannie Economos with the Farmworker Association of Florida (FAF) noted that although the frequency of complaints about soil fumigants in Florida appears to be low, there are actually people being adversely affected by fumigants now. The FAF has found that people may be unaware that the symptoms they are experiencing can be caused by pesticide exposures. Also, farmworkers are often reluctant to make complaints, even when they believe that harmful exposures have occurred.

Adjournment. Dr. Tolson reminded participants that the next meeting would be on May 11, 2010 at the Austin Cary Memorial Forest Conference Building. Thereafter, the meeting was adjourned.