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Collection/Record Group: Clinton Presidential Records
Subgroup/Office of Origin: Council on Environmental Quality
Series/Staff Member: Kathleen (Katie) McGinty
Subseries:

OA/ID Number: 4299
FolderID:

Folder Title:
Pesticides

Stack:	Row:	Section:	Shelf:	Position:
S	61	7	1	3



Post-It™ brand fax transmittal memo 7671		# of pages > 3
To	KATIE	From
Co.	MCGINTY	Co.
Dept.		Phone #
Fax #		Fax #

Natural Resources
Defense Council

1 Stevenson Street
San Francisco, CA 94105
15 777-0220
Fax 415 495-5996

September 16, 1993

Vice President Al Gore
The White House
Washington DC 20500

Dear Vice President Gore:

We are writing to express our very serious disappointment in the Administration's current direction with respect to securing national pesticide reform legislation. In that connection, we are writing to urgently request a meeting with you as soon as possible to avoid a public break with the Administration over this vital issue. At present, Congressional hearings are scheduled for next Tuesday when the Administration's legislative approach is to be released.

To date, at this late juncture, no written material on the Administration's legislative position on pesticide reform is yet available. As currently described to us, however, the Administration's approach -- the result of an inter-agency taskforce that includes USDA, FDA and EPA -- is seriously flawed in several respects.

At its essence, the proposal would repeal the Delaney Clause of the federal Food, Drug and Cosmetic Act and replace it with a cost-benefit standard for the next ten years. Moreover, as now fashioned, even after the ten years has run, the proposal would not set a statutory level of permissible cancer risk in the food supply, leaving that to the discretion of future Administrations. Even more importantly, the proposal simply fails to adequately accomplish what we believe to be the three critical goals in this area:

- To deal with chronic health hazards from pesticides at their core. This can only be accomplished, over time, by phasing out pesticides presenting the greatest hazard to human health;
- To respond to the special risks pesticides pose to children, as most recently recognized in the report issued by the National Academy of Sciences.

To create a system of incentives to reduce pesticide use and resultant risk in American agriculture.

9/21
Katie -
did pesticides
come up at
the recent mtg
w/ the VP? If
so, please let
me know how
to respond.

Ann
212-4724
EPA
Where the VP
is of the VP
needs to
be meeting
now.

Bill Golden
EPA
DPC

Vice President Al Gore
September 16, 1993
Page 2

As we know you are aware, for many years the numerous failures in the federal regulation of pesticides have been recognized by the Congress, the National Academy of Sciences, and many others. Because of recent court decisions requiring the Delaney Clause to be applied to pesticides, as well as the recent findings of the National Academy of Sciences with respect to the special risks these most toxic of chemicals present to infants and young children, the time is ripe to break the legislative logjam that has characterized this issue for decades.

But to do so will require leadership from the Administration and a cooperative effort with the environmental and labor community. Instead, the current Administration proposal appears to reflect a lowest-common-denominator approach in reaching agreement between the agencies and would result in a serious setback for public health. There appears to be disagreement over this matter on the interagency taskforce.

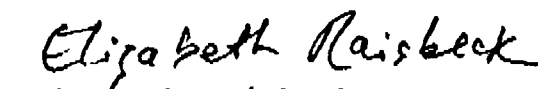
Public criticism of the existing proposal would represent a serious setback for all of us and ultimately impede an effective working relationship necessary to accomplish serious legislative reform. This should be avoided if at all possible. We are therefore requesting a meeting with you before Tuesday's hearings to seek your personal involvement in this dispute. We will be contacting your office today to discuss whether and when such a meeting could be scheduled.

As you know, we have worked closely with the Administration on several areas of mutual concern. We remain confident that, with your participation, we can succeed in accomplishing serious pesticide reform as well and look forward to hearing from you.

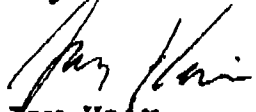
Sincerely,


John Adams

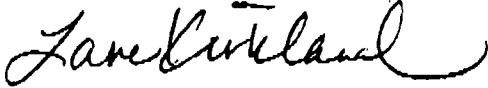
Natural Resources Defense Council


Elizabeth Raisbeck
National Audubon Society

Vice President Al Gore
September 16, 1993
Page 3



Jay Hair
National Wildlife Federation



Lane Kirkland
AFL-CIO



Carl Pope
Sierra Club

VP Scheduling -
pls regret if you have
not already done so.
OEP

September 17, 1993

MEMORANDUM FOR KATIE

FROM: TREY

SUBJECT: PESTICIDES

A legislative referral came in yesterday on EPA testimony on S. 331, Pesticide Food Safety Act. I got Pam's input from Kansas (she says hello) and talked with Linda Lance in the OVP. I found out that some enviros think that the bill does not go far enough (to our knowledge, they have NOT seen the draft bill) and that they will hold a briefing this morning at the National Press Club to strut their stuff. On the staff level, EPA thinks we should hold firm, but apparently Browner is having doubts and might call the VP today (unless it came up at the enviro breakfast) to get his thoughts. We are unsure if she is trying to get the VP directly involved in the substance or just get his guidance.

Other notes -- FYI:

1. Waxman and Kennedy at this point are not in the mode to trash our bill, rather they remain willing to work with us.
2. NRDC will be testifying before Waxman's committee next week -- they will no doubt urge that stronger measures be taken, but the word is that they won't bash us and will work with us.

I wanted to make sure you knew about the possibility that Browner might call the VP and to get your thoughts on this matter.

MEMORANDUM
TO: [illegible]
FROM: [illegible]
SUBJECT: [illegible]

28700003

10:00

YOU WERE CALLED BY - [illegible]
YOU WERE VISITED BY - [illegible]

PLEASE PHONE: [illegible] FTSD [illegible] AUTOVON [illegible]

WILL CALL AGAIN [illegible] IS WAITING TO SEE YOU [illegible]

RETURNED YOUR CALL [illegible] WISHES AN APPOINTMENT [illegible]

MESSAGE: [illegible]

RECEIVED [illegible] DATE: 9/17/81 TIME: 11:00

63-11 NSN 63-00-634 [illegible] (Rev. 8-81)
U.S.G.P.O.: 1982 312-070-40024 FPMR (41 CFR) 101-11.6

Handwritten notes on form:
- "note to LHM"
- "CIA says hold for me"
- "enviros are bashing Browner is having 2nd thought" (circled)
- "Sen. Lugar" (circled)
- "Pesther" (circled)
- "10:00" (circled)
- "you were visited by" (circled)
- "might call" (circled)
- "11:00" (circled)
- "9/17/81" (circled)

THE WHITE HOUSE
WASHINGTON

Enviro breakfast

1 ★
is the VP interested
in getting involved

Bill Schultz

Waxman & Kennedy →

They are not in a mode
to hash the whole thing

NRDC will testify before

Waxman → they will urge
for stronger measures but not
hash us.

Phase out of B2 Carcinogens

it goes w/o study NON STARTER ^{w/k} ^{must} ^{then Admin agree} ¹⁹⁹⁴

September 17, 1993

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Enviros have flipped

[Carolyn Brickley]
[Ken Cook]

→ ballistic on wh

Press Club briefing tomorrow
on their

Bill Galston has gone as
far as he can go
if ~~the~~ goes more enviro

engage
Kennedy/Waxman → still on board
for now

1. Linda Lance
did you read the 1972
fall pesticide thing
if fine then we're fine

(2) Sec. on Prohibition
on Σ

RESPONSE TO LEGISLATIVE REFERRAL MEMORANDUM

If your response to this request for views is **simple** (e.g., concur/no comment) we prefer that you respond by **faxing** us this response sheet. If the response is **simple** and you prefer to call, please **call the branch-wide line** shown below (NOT the analyst's line) to leave a message with a secretary.

You may also respond by (1) calling the analyst/attorney's direct line (you will be connected to voice mail if the analyst does not answer); (2) sending us a memo or letter; or (3) if you are an OASIS user in the Executive Office of the President, sending an E-mail message. Please include the LRM number shown above, and the subject shown below.

TO: Holly FITTER
Office of Management and Budget
Fax Number: (202) 395-5691
Analyst/Attorney's Direct Number: (202) 395-3233
Branch-Wide Line (to reach secretary): (202) 395-6194

FROM: 9-16 (Date)
Katie McGinty (Name)
DEP (Agency)
X6224 (Telephone)

SUBJECT: EPA Proposed Testimony RE: S 331, Pesticide
Food Safety Act of 1993

The following is the response of our agency to your request for views on the above-captioned subject:

_____ Concur

_____ No objection

_____ No comment

X See proposed edits on pages pg. 6 Executive Summary
pg. 33 Testimony

_____ Other: _____

_____ FAX RETURN of _____ pages, attached to this response sheet

- **PREVENTING EXPORT OF PESTICIDES BANNED BY EPA**
Export of any pesticide to a country that has decided that it does not want to receive shipments under the terms of the international system of "Prior Informed Consent" (PIC) would be prohibited, as would export of any pesticide that has been denied registration or canceled for all or virtually all uses in the U.S. based on health concerns. ★ Never-registered food use pesticides could only be exported if there were a U.S. tolerance for the active ingredient and/or a method capable of detecting residues in food.
- **FEES TO SUPPORT FIFRA '88 REREGISTRATION**
The proposal would include authority to impose a new one-time supplemental reregistration fee assessed on an active ingredient basis and an individual product reregistration fee. Annual maintenance fees as required under the current reregistration program would continue.

DRAFT--9/14/93

or those pesticides that were
voluntarily cancelled in US
by the manufacturer for
health or safety reasons.

citizen suits under FIFRA, with prior notice to responsible regulatory authorities at the state and/or federal level.

We would also propose to expand EPA's record-keeping authorities under FIFRA with respect to commercial applicators, pesticide dealers and laboratories that conduct testing to support pesticide registrations.

Finally, we support FIFRA amendments to make enforceable under U.S. law prohibitions on the export of certain pesticides. The Administration proposes enactment of several legislative changes in this area.

First, FIFRA should prohibit the export of any pesticide to a country that has decided that it does not want to receive shipments under the terms of the international system of "Prior Informed Consent" (PIC) established under the auspices of the UN Food and Agriculture Organization and the UN Environment Programme. The PIC system is designed to cover pesticides that have been prohibited for all or nearly all uses by participating countries, based on human health or environmental risk concerns.

Second, FIFRA should prohibit export of any pesticide that has been cancelled for all or virtually all uses in the U.S. based on health concerns*. Approximately 50 pesticides would fall in this category, including pesticides that have been voluntarily cancelled due to risk concerns.

Third, never-registered food use pesticides should only be allowed to be exported if there is a U.S. tolerance for the

→ or those pesticides that were voluntarily cancelled in the U.S. by the manufacturer for health or safety reasons.

WHITE HOUSE OFFICE ON ENVIRONMENTAL POLICY

TO:

FROM:

DATE:

FAX:

Ram McElwee

Trey Lindsey

9-16

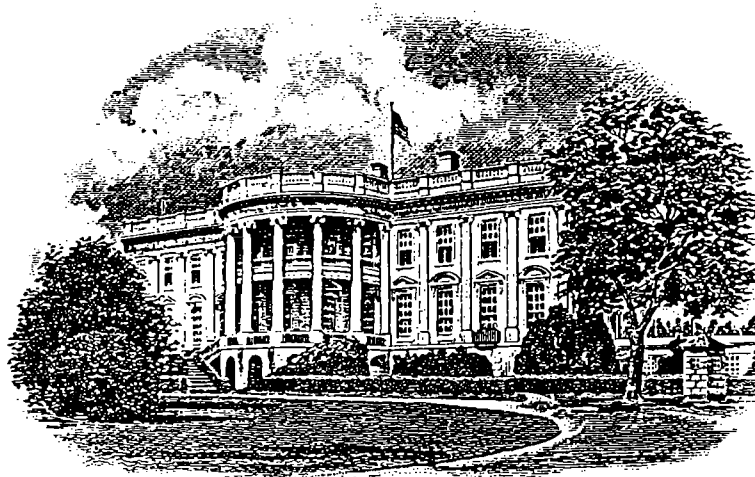
913-864-5317

Number of pages including cover:

8

COMMENTS:

*Let me know what you
think. I need comments back
by 5:00 pm TODAY! Thx.*



PHONE - (202) 456-6224 FAX - (202) 456-2710
OLD EXECUTIVE OFFICE BUILDING, ROOM 360
WASHINGTON, DC 20501

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C. 20503

SPECIAL

September 14, 1993

LEGISLATIVE REFERRAL MEMORANDUM

LRM #I-1206

TO: Legislative Liaison Officer -

AGRIC-CR - Hal Gross (all testimony) - (202)720-7095 - 230
COMMERCE - Michael A. Levitt - (202)482-3086 - 324
HHS - Frances White - (202)690-7760 - 328
JUSTICE - Sheila F. Anthony - (202)514-2141 - 217
STATE - Julia C. Norton - (202)647-4463 - 225
CEA - Francine Obermiller - (202)395-5036 - 242
NEC - Sonia Mathews - (202)456-6722 - 429
USTR - Fred Montgomery - (202)395-3475 - 223

FROM: RONALD K. PETERSON (for) *Ronald K. Peterson*
Assistant Director for Legislative Reference

OMB CONTACT: Holly FITTER (395-3233)
Secretary's line (for simple responses): 395-6194
Mark KRAMER (395-3445)

SUBJECT: EPA Proposed Testimony RE: S 331, Pesticide
Food Safety Act of 1993

DEADLINE: 5:00 PM September 16, 1993

COMMENTS: This testimony provides the Administration's
recommendations for the reauthorization of the Federal
Insecticide, Fungicide, and Rodenticide Act (FIFRA).

OMB requests the views of your agency on the above subject before
advising on its relationship to the program of the President, in
accordance with OMB Circular A-19.

Please advise us if this item will affect direct spending or
receipts for purposes of the the "Pay-As-You-Go" provisions of
Title XIII of the Omnibus Budget Reconciliation Act of 1990.

CC:
B. Clendenin
M. Weatherly
T. Hunt/M. Mitchell
B. Damus
B. Galston
H. Paster
K. McGinty

ADMINISTRATION PESTICIDE/FOOD SAFETY LEGISLATIVE REFORMS:
EXECUTIVE SUMMARY OF TESTIMONY

Last June, the Administration announced its commitment to reducing pesticide use and promoting sustainable agriculture through the development of legislative, regulatory, and administrative initiatives. Today, we are pleased to have the opportunity to present the results of our efforts to date.

The Administration's initiatives are designed to maintain and enhance food safety for all Americans, to address recommendations of a recent National Academy of Sciences (NAS) report on ways to improve pesticide regulation to better assure that children are fully protected from pesticide risks, and to strengthen regulatory agencies' ability to make and enforce sound, timely, science-based decisions to protect public health and the environment.

The Administration's pesticide/food safety reform package includes changes to both the Federal Food, Drug, and Cosmetic Act (FFDCA) and the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). The heart of the proposal is the establishment of a negligible risk standard that would apply to all pesticide residues in food. Existing residue tolerances that may have been established on a risk/benefit basis would have to be reviewed and brought into conformity with the negligible risk standard within fixed time frames. The proposals allow for a transition period under carefully prescribed conditions that will help avoid undue dislocations in agricultural production but still ensure an absolute deadline for all tolerances to meet the new standard.

The principles that guided our work in developing legislative and regulatory proposals included:

- o a firm commitment to reducing risks to people and the environment that may be associated with pesticides, and especially to providing greater assurance of protection for children, while ensuring the availability of cost-effective pest management techniques;
- o recognition of the need to work with American farmers to develop and implement improved means of pest control, to reduce use of higher-risk pesticides and promote greater use of integrated pest management (IPM) techniques, including biological and cultural pest control systems and other sustainable agricultural practices;
- o implementation of regulatory reforms and incentives for the development of pesticides that will eliminate or reduce risks compared to currently registered pesticides.

Building on the recommendations of the NAS report and the input we have received from representatives of all interests concerned about pesticide use and regulation, we have developed a

comprehensive set of legislative reforms we believe will allow us to make real progress in enhancing public health and environmental protection. Consistent with the approach of the National Performance Review, these changes will make government work better, and establish a more credible pesticide regulatory system that is based on sound science and is capable of acting promptly to reduce pesticide risks whenever they are identified.

The major elements of our reforms are outlined briefly below. Our formal testimony provides more detail on how these provisions would work and the benefits we expect from their implementation. In addition, the testimony gives an update on our progress in addressing the NAS report recommendations and developing pesticide use reduction strategies.

FEDERAL FOOD, DRUG, AND COSMETIC ACT (FFDCA) PROPOSALS

o TOLERANCE SETTING

Tolerances for pesticide residues in all types of food would be based on a strong, health-based standard of "negligible risk," defined as "a reasonable certainty of no harm" to consumers of the food.

The statute would mandate use of the best available science and information in decision-making. In the absence of reliable information that could refine residue level estimates or other assumptions used in risk assessment, however, protective, "worst case" default assumptions would be required.

The statute would also specify criteria for the types of factors EPA should consider in assessing pesticide risks as part of the tolerance setting process, including, for example, risks to potentially sensitive subpopulations.

o SPECIAL PROVISIONS FOR INFANTS AND CHILDREN

Our proposals for tolerance setting are directly responsive to the NAS recommendations that EPA consider unique aspects of children's diets and other sources of pesticide exposure. EPA would be required to make specific safety findings for infants and children in all tolerance decisions.

A high-level interagency task force would be charged with focusing on the NAS' recommendations to provide a greater level of assurance of protection for children, and reporting back to Congress and the President on implementation.

o REVIEW OF EXISTING TOLERANCES

EPA would be required to review all existing tolerances against the new standard and ensure that risks are brought down to negligible within seven years of enactment.

Special fast track provisions would require priority review of pesticides which, based on currently available data, appear to exceed negligible risk. EPA would have to identify these pesticides within 180 days of enactment. To the extent feasible, the review of these tolerances should be complete within three years, and in any event no later than four years after enactment.

o **TIME-LIMITED TRANSITIONAL TOLERANCES**

In exceptional cases, EPA could grant time-limited transitional tolerances of no more than five years for a chemical identified during the tolerance review process as posing greater than negligible risk, if the pesticide provides direct health benefits to consumers or the loss of the pesticide would result in significant disruption in the food supply by substantially decreasing domestic production.

Under no circumstances would such time-limited tolerances be granted for pesticide risks that exceed ten times negligible risk. The total time tolerances for such pesticides could remain in effect could not exceed 10 years after enactment. The burden would be on the tolerance sponsor to make the showing needed to support a time-limited tolerance, and to report biannually to EPA on efforts to reduce risks to negligible and the continuing existence of the effects that warranted the initial granting of the tolerance.

A greater than negligible risk tolerance granted under these provisions could only be renewed if Congress enacted a statutory exemption.

No new transitional tolerances exceeding negligible risk could be granted after enactment unless warranted on the basis of public health benefits. After the seven year tolerance review is complete, existing tolerances that are newly-identified as possibly exceeding the negligible risk standard (e.g. due to new data or changes in risk assessment assumptions) could be granted transitional tolerances of up to 5 years.

Both the tolerance review and transitional, time-limited tolerance provisions are responsive to NAS recommendations that tolerance setting be health-based, and that risk assessments incorporate improved toxicology and exposure data.

FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT (FIFRA) PROPOSALS

o **REGISTRATION "SUNSET"**

Pesticide registrations would expire in 15 years unless a new application meeting current scientific standards is

received by year 12 and approved by EPA. In between renewal dates, EPA could also require new data or, if risk concerns warrant, take action to phase-out, cancel, or suspend the pesticide.

○ **PHASE-OUT/PHASE-DOWN**

Whenever credible scientific evidence indicates that a pesticide is reasonably likely to pose a significant risk to humans or the environment, EPA could by rule-making take steps to limit the potential risk by requiring the phase-out or phase-down of the pesticide's use, for example by imposing production caps or eliminating uses. EPA would consult with USDA in establishing phase-out requirements.

○ **STREAMLINING LABEL CHANGES AND ESTABLISHING A SINGLE, UNIFORM LABEL COMPLIANCE DATE ("LABEL CALL-IN")**

Modeled on the existing "data call-in" provisions of FIFRA Section 3(c)(2)(B), this authority would establish a streamlined process for achieving relatively small changes in the conditions of registration (e.g. label changes that reduce pesticide risks but do not affect the availability of a pesticide for use on any particular site).

An annual uniform labeling effective date would be established, and registrants would be able to make label changes in a predictable, orderly fashion.

○ **INCENTIVES FOR DEVELOPMENT OF REDUCED RISK PESTICIDES**

EPA would establish criteria for designation of reduced risk pesticides. Registration applications that appear to meet the criteria would qualify for priority review, and, if approved, would be accorded two additional years of exclusive data use, beyond the ten years now provided in FIFRA.

Also, EPA would be authorized to grant special time-limited conditional registrations for biologically-based pesticides posing low potential risks.

○ **PESTICIDE USE REDUCTION AND SUPPORT FOR INTEGRATED PEST MANAGEMENT**

The statute would state a clear policy goal favoring reduced use and direct federal agencies to take a leadership role in promoting use reduction and IPM in their programs.

The statute would authorize regional ecosystem-based reduced use pilot projects and set a goal for development of IPM programs and implementation strategies for 75% of acreage within 7 years of enactment. EPA and USDA would be mandated to work together to identify the research, education and extension activities that are most promising in terms of

opportunities for reducing dependence on pesticide use, in particular targeting pesticides that raise risk concerns.

The current prohibition on requiring IPM training as part of certification and training programs would be repealed.

EPA would be authorized to establish criteria for "prescription use" of pesticides. Such authority could permit retention of pesticides critical to IPM and pest resistance management programs.

- **IMPROVED PESTICIDE DATA COLLECTION**

Following the model of the 1990 Farm Bill provisions, which require record keeping for restricted use pesticides, FIFRA would require USDA to establish record keeping requirements for all pesticide use.

EPA and HHS are also pursuing better incident monitoring and surveillance systems.

- **PESTICIDE MINOR USES**

Incentives for registering minor uses would include priority review and extended exclusive data use rights. In reregistration, unsupported minor uses lacking only residue chemistry data could continue until the last study for the pesticide is due, and registrants would have until that date to supply data for the minor use.

EPA and HHS/PHS would collaborate to identify critical public health minor uses that might otherwise be lost, and to arrange for necessary data support, with HHS/PHS playing a role analogous to that of USDA in the IR-4 program for agricultural minor uses.

- **CANCELLATION AND SUSPENSION PROCEDURES**

Cancellation procedures would be amended to replace formal, trial-type ALJ proceedings with a notice-and-comment cancellation process. Suspensions would be decoupled from cancellation procedures, and the time-consuming and cumbersome ALJ process for challenging suspensions would be replaced by a petition procedure and prompt judicial review.

- **ENFORCEMENT AUTHORITIES**

Improvements in enforcement authorities would include enhanced inspection, record keeping and lab audit authorities; "whistle blower" and citizen suit provisions; and significant increases in penalties for FIFRA violations, commensurate with the nature of the offense. All regulations under FIFRA would be fully enforceable.