



Update: Transforming Government's Approach to Regulating Pesticides

# What a Second Obama Term Can Do to Stop the Toxic Treadmill

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With the first inauguration of President Obama in 2009 and a new optimism for transforming pesticide regulation in the U.S., Beyond Pesticides laid out several recommendations in the spring of 2009, urging the new Obama administration to address several high priority issues we identified. With the dawn of a second Obama term, we reflect on the last four years of advances and challenges in pesticide regulation, and recommend again key priorities that should reflect their resonance with the priorities of the second Obama Administration in "protecting the air we breathe, water we drink, and land that supports and sustains us."

The 2009 document, *Transforming Government's Approach to Regulating Pesticides: To Protect Public Health and the Environment* (available on the Beyond Pesticides' website at <http://bit.ly/VZJXky>), focused on pending regulatory actions and petitions before the government, either because of ongoing chemical reviews, rulemaking, or petitions. While we incorporate big picture thinking, we were, and are still focused on specific actions that the relevant agencies could take immediately. Those recommendations were submitted to the White House in 2009. The issues covered in the document included, but were not limited to: promoting organ-

ic agriculture; protecting sensitive species; regulating endocrine disruptors; protecting farmworkers and their families; disclosing inert ingredients; banning persistent, bioaccumulative pesticides; and, protection from low-dose exposure. Now we urge the administration to redouble its effort on these issues with renewed vigor, and affirm its commitment to a healthy American public and environment.

## Success

During the first term, Beyond Pesticides' executive director was appointed to a 5-year appointment to the National Organic Standards Board (NOSB) as a representative of the environmental stakeholder group. The Board seat has offered the important opportunity to advance organic standards in alignment with the *Organic Foods Production Act*, which Beyond Pesticides helped to draft in the late 1980's. Beyond Pesticides has used its expertise to evaluate materials reviewed by the NOSB for inclusion on the National List of Allowed and Prohibited Substances and advance policies that strengthen attention to preventing adverse health and environmental effects, protecting biodiversity, determining essentiality of materials, and respecting consumer expectations. Beyond Pesticides has launched other collaborative projects with the administration to eliminate dependency on toxic pesticides. The work with the NOSB establishes a framework for the admin-

istration to further institutionalize alternatives to toxic pesticide dependency by strengthening organic system standards, building public trust in the organic label, and assuring transparency and solid science in the Board's regulatory deliberations. The goal is to move an organic systems approach into the mainstream as the use of toxic pesticides becomes increasingly unacceptable in all venues, from agriculture, playing fields, parks, schools, to homes and gardens.

Since 2009, we have celebrated important victories, such as the cancellation and phase out of highly toxic pesticides like azinphos-methyl (AZM), endosulfan, methidathion, methamidophos, methyl parathion, sulfuryl fluoride, and methyl iodide. Limitations were also placed on certain organophosphate pesticides: chlorpyrifos, diazinon, and malathion, to protect endangered and threatened salmon and steelhead in California, Idaho, Oregon and Washington. Also, several rodenticide products, proven to be toxic to children and wildlife, were identified for cancellation by the U.S. Environmental Protection Agency (EPA) with remaining products to be available only in secured bait stations, ensuring that the poisoning of children would be reduced. There were also partial victories that saw the restriction of certain pesticide uses, even though EPA did not go far enough to protect vulnerable populations. For instance, the highly toxic chlorpyrifos was given new agricultural risk mitigation measures to reduce exposure of bystanders to spray applications by restricting aerial application rates and establishing mandatory buffers around sensitive sites where bystanders, including children, are known to suffer exposure. However, the new restrictions continued to ignore the unique risks to farmworker health and that of their families.

In 2011, EPA moved quickly to issue a "Stop Sale, Use, or Removal" Order, under Section 13 of the *Federal Insecticide, Fungicide and Rodenticide Act* (FIFRA) for the new herbicide Imprelis, which caused hundreds of acres in damage to spruce and pine trees across the country. Imprelis (aminocyclopyrachlor) was conditionally registered without pertinent data on its ecological effects on non-target plants. EPA broke through the bureaucratic inertia that has historically plagued the agency to remove this pesticide that was killing trees by deeming the pesticide misbranded because it was causing adverse effects that were not controlled. Even though this case draws parallel to the conditional registration of the bee-killing clothianidin, where the product was put on the market before all

relevant supporting data was submitted and is considered "misbranded" because of adverse ecological effects associated with its use, EPA, in the face of millions of dollars of damage to non-target trees, was forced to quickly order the removal of Imprelis from the market. EPA also made some strides forward in increasing transparency and improving chemical oversight. In 2009, the agency invited public comment on options for disclosing "inert ingredients" in pesticides. Unfortunately, this action has been on hold. EPA also proposed new labeling guidelines for pesticide drift to provide clearer, more consistent and enforceable label directions. However, a path forward on these guidelines has not yet been reached.

## Continuing Challenges

Under the Obama Administration there was also an alarmingly increase in deregulatory actions allowing the proliferation of genetically engineered (GE) crops into the environment. Industry giants like Monsanto and Syngenta were granted numerous petitions to the U.S. Department of Agriculture (USDA) to deregulate various GE crops, such as corn, soybeans and alfalfa, that are tolerant to various herbicides, including 2,4-D, glyphosate (Round-up) and those that incorporate the insecticide *Bacillus thuringiensis* (Bt). Organic and non-GMO farmers still face dangers and threats of legal action associated with genetic drift, an issue ignored by both industry and USDA. EPA's response to colony collapse disorder (CCD) has been disappointing, given the strong evidence that links the disappearance of the bees to the expanding uses of neonicotinoid pesticides.

## Congressional Pushback

In the 112th Congress, there were a staggering 125 pieces of legislation or more that sought to reduce environmental protection, including 50 bills targeted at EPA, 16 to dismantle the *Clean Water Act*, 31 against actions that can prevent pollution, and 22 to defund or repeal clean energy initiatives. This includes H.R. 872, a bill that was introduced to strip the *Clean Water Act* of its authority over pesticide discharges into U.S. waterways. The language of this bill has also been included into other pieces of legislation but thanks to the diligence of concerned members of Congress and environmental groups and their members, those bills did not advance in Congress. H.R. 872 and other similar bills were introduced in response to the new National Pesticide Discharge and Elimination System (NPDES) permits for pesticide use, which went into effect in 2011. New regulations now require pesticide applicators to have permits to discharge pesticides in or near U.S. waterways regulated under the *Clean Water Act*. Industry and agribusiness groups took to the Hill to undermine EPA's statutory responsibility to institute the permits, as did states that view the



## Summary of Key Priorities for the Obama Administration, Accomplishments and Challenges

Key Priorities, 2009	Federal Action Since 2009	Action Still Needed
Promote organic agriculture and systems to slow global climate change.	Organic garden created at White House. (2009) Beyond Pesticides' executive director appointed to National Organic Standards Board (NOSB). (2009)	Farm Bill that supports organic agriculture and directs USDA to shift focus from chemical-intensive agriculture to one that promotes alternatives that reduce environmental contamination and fight climate change. Place moratorium on new GE crops. Protect and build organic integrity.
More aggressive action against harmful pesticides.	EPA issues a "Stop Sale, Use, or Removal" Order for the herbicide Imprelis by utilizing an authority that has not been frequently used to regulate the product as "misbranded" under the <i>Federal Insecticide, Fungicide, and Rodenticide Act</i> (FIFRA). (2011)	Broader application of the "misbranded" finding to chemicals such as neonicotinoids, which are killing bees.
Protect sensitive species with immediate protections for honey bees and other pollinators.	Pollinator issue elevated at federal and state level with several task forces created (2010). Scientific Advisory Panel review of pollinator risk assessment framework. (2012)	Ban insecticides clothianidin and thiamethoxam.
Protect water from pesticide contamination by ensuring consistency with <i>Clean Water Act</i> .	National Pollution Discharge Elimination System (NPDES) permit instituted to monitor pesticide discharges. (2011)	Identify legislation that weakens the <i>Clean Water Act</i> . Urge EPA to enact stricter water standards for pesticides and their metabolites.
Protect farmworkers and farmworker children.	Cancellation and phase out of endosulfan (2010) and azinphos-methyl (AZM). (2012)	Adopt stronger worker protection standards. EPA must also revoke the registrations of pesticides found to be responsible for acute and chronic poisoning of farmworkers, including chlorpyrifos, ethoprop and diazinon.
Protect children from dangerous pharmaceutical pesticide products.	FDA dismisses lindane suit, refuses to remove lindane from lice shampoos. (2012)	FDA and EPA must ban lindane and work to strengthen coordination on the regulation of pharmaceutical products containing pesticides.
Incorporate pesticide drift into assessment of pesticide exposure.	EPA considers proposing draft guidelines to clarify pesticide drift label language. (2011)	EPA must improve definition of drift and harm caused by drift, and improve enforcement capabilities for ensuring compliance with pesticide labels.
Prevent testing of pesticides on people.	EPA issues new rules on human testing to include more checks and balances that serve as disincentive for companies to test on human subjects. (2011)	EPA must ensure prohibition of industry-sponsored human testing, as well as the exploration of government-sponsored human testing.
Ensure fumigant pesticide regulations maintain protections for public health.	EPA issues new safety measures to increase protections for agricultural workers and bystanders. (2009) New use restrictions on aluminum and magnesium phosphide, including prohibition of all uses around residential areas. (2010) Methyl iodide withdrawn from U.S. market. (2012)	Address current data gaps and transition from the use of fumigants to safer alternatives.
Disclose "secret ingredients" in pesticide products.	EPA initiates rulemaking to disclose all ingredients on pesticide labels. (2010)	Finalize a new rule requiring pesticide labels to identify hazardous inert ingredients classified by federal statutes.
Ban the non-medical uses of the hazardous antibacterial triclosan.	EPA publishes for comment Beyond Pesticides' petition to ban triclosan (2010). Manufacturers quietly reformulate products to remove triclosan.	EPA and FDA must make a finding that the triclosan poses unreasonable risks to human and environmental health and ban the chemical from consumer products.
Establish moratorium on pesticidal nanotechnology.	EPA announces nanopesticides will be regulated as new pesticide active ingredients. EPA moves forward to collect data on nanomaterials under FIFRA Section 6(a)(2). (2011)	EPA must quickly develop testing protocols that identify potential adverse health and environmental effects of nano-products with pesticidal properties.
Cancel tolerances and uses for sulfuryl fluoride and assist with alternatives.	EPA announces phase-out of all food-related uses of sulfuryl fluoride (2011), then reopens comment period on the proposed tolerance revocation and stay request for the chemical based on concerns about availability of alternatives. (2012)	EPA must uphold its decision to revoke tolerances for sulfuryl fluoride, given that organic practices are available and effective.

law as burdensome, and lobbied congressional representatives to support legislation to dismantle the act's jurisdiction over pesticide discharges. Similarly, several riders have been quietly inserted into pieces of legislation that attack U.S. judicial review of the sale and planting of GE crops, as well as limit regulatory authority of USDA and EPA to analyze GE materials. Thus far, these legislative pieces have stalled in Congress.

## **A Second Obama Administration**

### ***Moving Forward To Transform Pesticide Regulation***

There is still much work to be done moving forward with a second Obama Administration. The key priorities are to elevate organic management policy and practice and end hazardous and unnecessary pesticide use, while embracing a more precautionary approach to toxics policy. The U.S. needs a new policy direction to shift away from a reliance on toxic chemicals in agriculture, industry and consumer goods, and transition to greener, more sustainable alternatives that can help reverse the contamination of air, water, soil and food, and global climate change. The goal remains that this second Obama administration embraces improved chemical restrictions and policies for advancing practices that avoid toxic chemicals, eliminating hazards to public health, workplace conditions and the environment. In order to achieve this, a clear vision is needed for pesticide policy across all relevant federal agencies that transition us from outdated scientific approaches, technologies, and assessments that rely on toxic chemicals to policies that incentivize green technologies, promote sustainable practices and organic agriculture, and restrict hazardous chemicals.

We recommend that the new administration, in the short term, move quickly to:

#### **1. *Protect Sensitive Species with immediate protections for honey bee and other pollinators.***

Pesticides, parasites, and other factors have been identified as contributors to global bee decline. EPA must quickly take action to place a moratorium on the neonicotinoid class of insecticides, while immediately banning clothianidin and thiamethoxam, both chemicals of this class that have

linked to adverse bee health, as was done with the herbicide Imreprelis.

#### **2. *Promote Organic Agriculture and Systems to Reduce Environmental Degradation and Slow Global Climate Change***

USDA must place a moratorium on new plantings of GE crops until a thorough review of the human health and environmental hazards are completed. GE crops increase the use of pesticides, contaminate wild and non-GE fields, including organic, induce weed and insect resistance, and may be linked to chronic human health problems. USDA must be given direction to promote alternatives to a chemical dependent agricultural sector, recognizing organic as a viable option.

#### **3. *Regulate Pesticides that Cause Endocrine Disruption***

EPA must accelerate the finalization of its Endocrine Disruptor Screening Program (EDSP) and review all chemicals under its jurisdiction for endocrine disrupting activity as required under the *Food Quality Protection Act* (FQPA). The agency must also produce a list of endocrine disruptors and potential endocrine disruptors based on scientific information and similar to that done in the European Union.

#### **4. *Protect Water from Pesticide Contamination by Ensuring Consistency with Clean Water Act***

With the implementation of the NPDES permit for pesticide discharges, Congress must support EPA's authority over our environmental laws and not undermine regulatory efforts to monitor, review and restrict pesticide contamination of the environment. This includes not supporting H.R. 872 and other similar bills in Congress.

#### **5. *Protect Farmworkers and Farmworker Children***

EPA has not gone far enough to restrict pesticide chemicals that pose a danger to farmworker communities. The agency must move quickly to ban chemicals that disproportionately impact farmworker health and that of their families, as well as enact stronger worker protection standards.

Our dependency on highly hazardous chemicals can be replaced with safer, sustainable policies and methods for how we manage unwanted insects, plants and rodents, grow food, and manufacture goods. Beyond Pesticides urges the second Obama administration to grasp this second opportunity to reverse the toxic treadmill, and provide public health and environmental protections for future generations of Americans. Chemical restrictions and new risk mitigation measures are no longer adequate when it is widely known that pesticide reliance can be eliminated with ecological and organic land and building management strategies.