November 22, 2024

Hon. Mark Holland, P.C., M.P.
Minister of Health
hcminister.ministresc@hc-sc.gc.ca

Dear Minister Holland,

Re: Industry interference in pesticide assessment

Following reports in the *National Observer* that Health Canada's Pest Management Regulatory Agency (PMRA) allegedly "colluded" with Bayer Crop Science to maintain registration of the controversial neonicotinoid pesticide imidacloprid, we write to request that you urgently intervene to put safeguards in place to ensure that impartial PMRA scientists can do their job in service of the public interest and prevent inappropriate industry influence in pesticide regulation. We also draw your attention to the two notices of objection to the 2021 re-evaluation decision for imidacloprid (RVD2021-05), for which responses are still pending. In light of the recent reports, we ask that you immediately establish an independent panel to review the imidacloprid re-evaluation decision, pursuant to section 35(3) of the Pest Control Products Act.

Background

Imidacloprid is a neonicotinoid insecticide, a class of controversial chemicals linked to global pollinator decline and loss of insect biodiversity. Highly persistent and water-soluble, neonicotinoids build up in the environment and can be harmful to many species and ecosystem functioning. Their toxic and systemic properties pose particular risks to pollinators and other beneficial insects, but also to granivorous birds, insectivorous mammals, and aquatic invertebrates. Neonicotinoids also pose indirect threats to aerial insectivorous birds, which depend on the hatch of aquatic invertebrates, and are in rapid decline in part due to reduced food quality and quantity. Recent research also suggests associations between neonicotinoid exposure and adverse human health effects. Studies report a range of health harms from

dizziness, to eye and throat irritation, nervous system impacts, neurotoxicity, reproductive anomalies, hepatic and renal damage, and an increase in hormone-dependent breast cancer.

While its outdoor use has been banned in the European Union since 2018, nearly 100 imidacloprid pest control products remain registered in Canada. The PMRA's most recent re-evaluation of imidacloprid initially concluded that it was present in Canadian water samples at levels that could harm aquatic insects, indicating risks to aquatic ecosystems were not acceptable. Consequently, in 2016, the PMRA proposed to cancel agricultural uses of imidacloprid and simultaneously initiated special reviews of risks to aquatic ecosystems from the other two main neonicotinoids – clothianidin and thiamethoxam. Following protracted consultations, the PMRA ultimately backtracked on the proposed cancellations. The 2021 final re-evaluation/special review decisions maintained registration of all three neonicotinoids in Canada. There remains widespread concern about the harmful effects of neonicotinoids. The most recent pesticide sales reports indicate that between 10,000 and 50,000 kg of imidacloprid and thiamethoxam (each) and between 5,000 and 10,000 kg of clothianidin were sold in Canada in 2021 – a figure that does not include the significant volumes of imported seeds pre-treated with the chemical.

Pending Notices of Objection to RVD2021-05

Section 35(1) of the Pest Control Products Act provides that any person may file with the minister a notice of objection to certain decisions under the Act within 60 days after the decision is published Section 35(3) of the Act states:

> After receiving a notice of objection, the Minister may, in accordance with the regulations, if any, establish a panel of one or more individuals to review the decision and to recommend whether the decision should be confirmed, reversed or varied.

Under the regulations, the Minister should establish a review panel if the objections raise a scientifically founded doubt about the validity of the evaluations on which the decision was based, and the Minister considers that the advice of expert scientists would assist in addressing the objections.[1]

Two notices of objection were filed to the imidacloprid re-evaluation decision in 2021. Both are inexplicably still pending more than three years – and three health ministers – later. The notice of objection filed by Dr. Christy Morrissey specifically requests a review of the PMRA's decision to exclude independent water sampling data from the final assessment.[2] Higher concentrations of imidacloprid were detected in many of the excluded samples, suggesting that sampling data of sites not exposed to neonicotinoids may have been selectively and preferentially included in the final assessment – *at the request of the registrant* (Bayer Crop Science) – to favour continued registration of imidacloprid products.

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[1] Review Panel Regulations
https://www.laws-lois.justice.gc.ca/eng/regulations/SOR-2008-22/page-1.html#h-745957

[2] The Morrissey notice of objection also identifies several other aspects of the final assessment that reflect a weakening of scientific rigour in methods and merit review.

We hope you will agree that an independent review is appropriate and necessary under the circumstances, and that you will proceed to establish an independent review panel without further delay and mandate it to make recommendations within three months. In the interim, we ask you to suspend registration of imidacloprid and associated end-use products, pursuant to section 26 of the Act.

For a review panel to be credible and to ensure the impartiality of the advice it provides, it will be essential to ensure that appointed members are independent experts with no real, potential or perceived conflicts of interest. We recommend adopting the conflict of interest standards and assessment procedure in place for the Science Advisory Committee on Pest Control Products to screen potential appointees to a review panel.

We further request that you mandate the review panel, in its terms of reference, to review the special review decisions for clothianidin and thiamethoxam (SRD2021-03 and SRD2021-04), as well as RVD2021-05. The clothianidin and thiamethoxam special reviews were conducted in parallel and initiated in response to the proposed re-evaluation decision for imidacloprid. All three neonicotinoid insecticides present similar and cumulative risks to aquatic insects. As with imidacloprid, the PMRA initially proposed to cancel agricultural uses of clothianidin and thiamethoxam but reversed course in the final special review decisions. In light of the recent revelations of Bayer Crop Science's inappropriate role in the final imidacloprid re-evaluation, the potential interference of registrants in these other neonicotinoid assessments needs to be investigated. We note that Bayer is the registrant of several clothianidin products as well.

We are concerned that the PMRA's processes and timelines for addressing notices of objection undermine the effectiveness of this provision in the Act. PMRA should not be delegated to make recommendations on whether a panel should be struck to review its own decisions, based on the principle that no party should judge its own case. In parallel to establishing an independent panel to review the neonicotinoid decisions, we strongly recommend reorienting the procedures for assessing notices of objections to ensure they are independent of PMRA and provide a more timely and appropriate response to concerns in the future.

Science Integrity at PMRA

Several of our organizations wrote to you and other ministers last year with concerns about regulatory capture at Health Canada, following reports that representatives of CropLife (of which Bayer is a member) and Canada Grains Council (of which Bayer is also a member and CropLife is a member and board chair) worked directly with officials from Agriculture and Agri-food Canada, the Canadian Food Inspection Agency and Health Canada to "co-develop" updated CFIA guidance on Plants with Novel Traits and related Health Canada guidance. In our October 2023 letter, we sought your assurance that CropLife is not being granted preferential access to pesticide-related policy development processes. Minister MacAuley's reply of March 6, 2024, stated that the Government of Canada exercises independence in decision-making across all government departments. However, Bayer Crop Science's insider role in the imidacloprid re-evaluation, as reported by the *National Observer*, is inconsistent with independent and impartial decision-making, and we are concerned that this may not be an isolated case. It calls

into question the scientific integrity of Health Canada's decision-making and the pesticide regulatory system overall.

The evidence of undue corporate influence suggests regulatory capture and requires your urgent attention to protect the public interest. In addition to an independent review of the neonicotinoid decisions, we ask you to launch a broader internal realignment of PMRA processes. Ensuring independence and scientific integrity is essential for robust decision-making under the Act.

Sincerely,

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Environmental Defence

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Cc. Hon. Steven Guilbeault, P.C., M.P., Minister of Environment and Climate Change
Mr.Yasir Naqvi, M.P., Parliamentary Secretary to the Minister of Health