



Newsletter about Pesticides

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Jurisdictional News



Sulfoxaflor: on its way to extinction?

In December 2021, two court decisions, in the United States and in France, canceled authorizations for sulfoxaflor-based insecticides. Sulfoxaflor is an active substance with a mode of action similar to neonicotinoids, the (in)famous bee killers.

United States : A Californian judge rejects the authorization of sulfoxaflor

On December 3, 2021, [the Judge of the Superior Court of Alameda County, California](#), rejected the authorization of the use of products containing sulfoxaflor. The decision follows a complaint by the Pollinator Stewardship Council and the American Beekeeper Federation against the registration decisions of the California Department of Pesticide Regulation, the defendant in

the case, for products containing the pesticide. The court found that the Department did not adequately consider the effects of sulfoxaflor, as required by the California Environmental Quality Act that requires government agencies to study the adverse effects of projects and products they approve and to consider alternatives, while the plaintiffs had presented substantial evidence of significant harm to pollinators.

Sulfoxaflor is produced by the company Dow AgroSciences, now Corteva, which was present as an interested party in the judgment. It is an insecticide that shares many characteristics with neonicotinoids. Like the latter, sulfoxaflor kills insects by interfering with their nerve receptors. Both are deadly to bees and other pollinators if they come into contact with spray residue on foliage or eat part of a plant that has absorbed it.

It is a devastating pesticide for bee colonies, which are already in dire straits. A study by [The Bee Informed Partnership](#), a nonprofit organization that works alongside beekeepers, found that between April 2020 and April 2021, beekeepers in the U.S. lost 45.5 percent of their honey bee colonies. This is the second highest annual loss on record.

So the decision by the Alameda County judge was crucial, especially because "every commercial honey bee colony in this country spends at least part of the year in California", according to [Steve Ellis](#), president of the Pollinator Stewardship Council.

As [Greg Loarie](#), attorney for the plaintiffs, points out, "With this ruling, the bees in California are getting much-needed relief just as we're seeing some of the worst signs of colony collapse."

In addition, it opens up new horizons in US regulation. On the one hand, it may prompt a ban on other neonicotinoid pesticides of the same kind in California. On the other hand, this California case opens the way for a similar decision at the federal level. Indeed, the plaintiffs in this case have already sued the federal Environmental Protection Agency on equivalent grounds.

France: A court cancels the authorization of two insecticides based on sulfoxaflor

On December 17, 2012, the [Administrative Court of Appeal of Marseille](#) confirmed the cancellation of the French marketing authorizations for Closer and Transform insecticides, containing sulfoxaflor. Our partners *Génération futures* and *Agir pour l'environnement*, as well as the *Union nationale de l'apiculture française* (UNAF), had initiated the applications.

The company Dow Agrosiences, now Corteva, producer of the two products, had appealed the judgment of November 29, 2019, by which the [administrative](#)

[court of Nice](#) had granted the groups' requests for cancellation. The [French agency for food, environmental and occupational health safety](#) (ANSES), had, for its part, declared not to appeal the judgment because of the ban on sulfoxaflor provided for by the [Egalim law](#) of 2018.

This law has indeed extended the ban on the use of neonicotinoid-based products established by the 2016 [law](#) for the recovery of biodiversity, nature and landscapes to active substances with modes of action identical to those of the neonicotinoid family. The [decree](#) of December 30, 2019 has acted on this ban by identifying as "active substances with modes of action identical to those of the neonicotinoid family", flupyradifurone and sulfoxaflor.

It was therefore logical for the Court to reject Corteva's motion.

To do this, it first noted that the application of the precautionary principle was justified in this case, since the use of Transform and Closer products presented a risk of serious and irreversible damage to pollinating insects, despite the uncertainties remaining as to the reality and scope of this risk in the state of scientific knowledge.

It also considered that the conditions of use of the products were "insufficiently precise and restrictive to guarantee, despite their mandatory nature, a use of the products in question without risk for pollinating insects".

Thus, the ability of the judge to recognize the danger for pollinators of these new pesticides similar to neonicotinoids, which is welcomed by our partner [Génération futures](#), can only encourage other legal actions against toxic pesticides that have been granted marketing authorization.

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