

MCFA

Minor Crop Farmer Alliance

August 7, 2015

Mr. Jack E. Housenger, Director
Office of Pesticide Programs
c/o OPP Docket
Environmental Protection Agency Docket Center (EPA/DC)
Mail Code: 28221T
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Re: Docket ID No. Docket EPA-HQ-OPP-2014-0818. “Proposal to Mitigate Exposure to Bees from Acutely Toxic Pesticide Products”, 80 Fed. Reg. 30644 – 30646

Dear Mr. Housenger:

These comments are submitted by the Minor Crop Farmer Alliance (“MCFA”) on the subject notice published in the Federal Register on May 29, 2015, 80 Fed. Reg. 30644 – 46 (the “Notice”).¹ MCFA is an alliance of national and regional organizations and individuals representing growers, shippers, packers, handlers and processors of various agricultural commodities, including food, fiber, turf grass, nursery and landscape crops, and organizations involved with public health pesticides. Our members are extremely interested in the development and safe use of pest management tools including crop protection chemicals that are environmentally sound, safe for applicators and workers, and do not represent an unreasonable adverse risk to non-target organisms, including pollinators. Many of our members depend on the use of pollination services, and we are also aware that pollinators are attracted to many of the crops we grow. These crops serve as variable pollen and nectar sources, contributing to the diversified nutrition of bees.

While our commodities are often called “minor crops” or “specialty crops,” they represent the largest users of pollination services. They also contribute to the diversity and highly nutritious diets available for the global population and to safe and aesthetic surroundings for our homes, schools, and places of business. U.S. farmers grow more than 500 types of fruit, vegetable, tree nut, flower, ornamental nursery and turf grass crops in addition to the major bulk (row)

¹ The comment period has been extended twice by the Agency. See 80 Fed. Reg. 35297—98, Friday June 19, 2015 and 80 Fed. Reg. 44321, Monday, July 27, 2015

commodity crops. Specialty crop production accounts for more than \$60 billion, or approximately 40% of total U.S. crop receipts.

The diverse and highly sophisticated producers of the commodities represented in MCFA have been directly involved in site-specific management of crop protection tools to minimize risks to non-target organisms of all types. Consequently, our members have the knowledgebase and technical expertise to provide meaningful input into the issues raised regarding mitigating risks to bees, as beekeepers share the production environment with the crops we grow. We have a long and successful history of working with our allies in the managed pollinator community in addressing issues as they are identified and working cooperatively to develop approaches that minimize potential adverse effects to the overall welfare of bees, particularly their hives.

We have serious concerns over the shift in policy represented by this proposal. It moves away from the traditional FIFRA based risk-benefit assessment approach in favor of an approach that appears based on application of the precautionary principle. The proposal removes consideration of the exposure component completely from the risk assessment process as well as a benefits assessment in determining the need for and appropriateness of risk mitigation steps. Many of the active ingredients identified with the proposal have had a long and very successful history of use, even during periods where bees have been on-site for pollination services. Through the adoption of application timing, formulation adaptations and collaborative management techniques developed with registrants, researchers and apiarist, who provide the bees for pollination services, risks to managed bees are being successfully addressed. These Best Management Practices (BMPs) directed towards minimizing risks to bees have been developed and provided through the Cooperative Extension Services at the state and federal level. Other BMPs have been developed on a commodity, state or regional basis by the commodity groups themselves. Examples of such programs include: **Minimizing Honey Bee Exposure to Pesticides**, J. D. Ellis, et al, March 2014, ENY-162, Entomology and Nematology Department, Florida Cooperative Extension Service, Institute of Food and Agricultural Sciences, University of Florida; **How to Reduce Bee Poisoning from Pesticides, PNW591**, December, 2006, H. Reidel, et al, Pacific Northwest Extension Publication, Oregon State University, Washington State University and the University of Idaho, and **Honey Bee Best Management Practices for California Almonds**, 2014, B. Curtis, et al, editors, Almond Board of California. Where adopted, these recommendations and practices have served to limit exposure to foraging bees, thereby reducing potential adverse incidents involving bees.

While we recognize the need to be mindful and protective of the pollinators that service the crops we grow, the products proposed for complete removal from existing crop management programs are used to control pests that are economically damaging to the crops for which their use was registered. These registrations were deemed appropriate by the Agency at the time of registration under the risk/benefit balance dictated by FIFRA. EPA has not provided sufficient

credible evidence that the use of these currently labeled compounds have created a level of impact that would justify removal from of these uses. We are at a loss to understand the lack of flexibility created by the proposed restrictions. A complete prohibition on use is unreasonable and inappropriate, and we are prepared to work directly within the impacted stakeholder community to further refine recommended practices where necessary to ensure minimal risk.

In order to assess the site specific impacts of the proposed labelling the following areas need further clarification and definition.

1. Clarification of When the Restriction Applies

As currently drafted, the proposed label language would prohibit any foliar application of these products to a site where commercial pollination contracted bees are present from the onset of flowering until flowering is complete. Is this language intended to be placed in the General Use Instructions section of the label or will it be located in the crop specific use instructions for the crops that require pollination services on the product specific labeling for each active ingredient? Does it supersede the language on many products in the general Environmental Hazard statement section of existing labels for the listed active ingredients that prohibit use when bees are “present”, “visiting”, or “actively foraging” (or when flowering weeds are present)? While the proposed label language prohibits use during the period from onset of flowering until flowering is complete, many contracted pollination service contracts specify a discreet period of time for which the bees are present for pollination services. Is this discreet contracted period the defining period for the prohibition of use?

The term “until flowering is complete” is also problematic, because for instance in the case of citrus production, citrus greening disease has negatively impacted trees to the point where some trees that have regressed into pure survival mode could potentially produce a limited number of flowers any month of the year. Under those circumstances, does the Agency intend that these products would not be allowable for use on citrus at all, because “until flowering is complete” might not be 100 percent attainable? This issue also applies to a host of crops that have intermittent bloom periods.

2. Definition of “On Site”

Depending on the crops to be pollinated, bees can either be dispersed directly within the crop site or located in proximity to the crop for which pollinator services are required. Does the proposed label prohibition apply to applications made directly to the crop when the bees are located directly in the crop? Many of our farms produce a diversity of crops with only a portion of the farm devoted to the crop for which pollination services would be contracted. In this scenario, is

the whole farm considered the site and if so, would the prohibition of use on the site apply to crops not covered by the contact for pollination services?

3. Definition of “Commercial Pollination Services”

Contracts and agreements between growers and beekeepers take many forms; some are very sophisticated and detailed written contracts, while others are based on verbal agreements that reflect multiple years of a continuing relationship. In some cases pollination services are implied but not specified. In other situations, the pollination service may be secondary to the needs of the beekeeper in having a pollen or nectar source during a certain period during the year. Are all of these types of relationships considered “commercial pollination services?” Does the Agency have a specific set of conditions or criteria that would need to be included in these types of agreements to meet the threshold of regulation to implement the requirements of the label?

MCFA anticipates significant management changes at the farm level depending on the Agency responses to the three areas identified above. This has the potential to result in a much more restrictive period under the pollination services contract. For other areas of potential restrictions (i.e., crops in bloom where bees are not required for pollination services), this language on a label would no doubt reduce the willingness of a grower to accommodate beekeeper requests to locate bees for honey production or resting sites between pollination service contracts.

As the Agency identifies the specific products and uses that create unacceptable risks to pollinators, MCFA endorses the utilization of Managed Pollinator Protection Plans (MP³s) as a mechanism to provide development of measurable risk mitigation processes on a crop/landscape basis. This is especially critical for those areas where impacts have been identified that affect the overall health of the colony. We would encourage the Agency to continue to work with the State Lead Agencies and Tribes on a framework that will result in a multi-stakeholder, transparent process that addresses the need for scientifically-based, mutually agreed upon programs that provide quantifiable measures of success in protecting a healthy pollinator community while minimizing adverse impacts on crop production.

The areas that were identified as uncertainties in the proposal all represent complicating factors in finding solutions to the concerns resulting from competing interests of the crop production and pollinator communities. If the goal of the regulatory community is to find adequate protective processes while providing flexibility to minimally impact either side of the production equation, the solutions can be found through sponsored dialogue at the state or local level. It is critically important that this process be conducted in a thoughtful, considered manner.

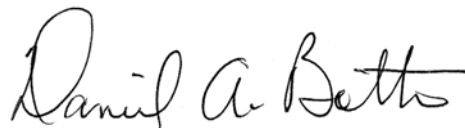
The variety of issues associated with overall honeybee health are very complex. While we acknowledge the potential impacts of pesticides in this complex matrix, we question the need for

the severe measures as reflected in the proposal, when historical use information does support such measures. MCFA would suggest development of a coordinated and comprehensive research program to determine the impacts of current agricultural practices that would better define the specific areas where mitigation efforts are needed. Such a research effort should take into account the impacts created by regional cropping patterns as well as the impact of husbandry practices by the bee keeping community. We would suggest a mechanism whereby the Agency, in cooperation with USDA and in consultation with the directly impacted stakeholder community, to develop a process to facilitate identification of key parameters and protocols to define magnitude of the impacts of pesticide use on managed pollinator communities.

MCFA would be happy to participate and facilitate this effort. With the information developed from such research, all interested parties can determine what, if any, modifications to use directions would be appropriate. MCFA strongly believes that such a science-based approach is in the public interest.

MCFA is pleased to provide comments on this very important program being considered by the Agency. We would like to express our sincere desire to actively work with the Agency to further refine the proposal.

Sincerely yours,



Daniel A. Botts, Florida Fruit & Vegetable Association
Chairman, MCFA Technical Committee

Attachments:

Minimizing Honey Bee Exposure to Pesticides, ENY-162, University of Florida

How to Reduce Bee Poisoning from Pesticides, PNW 591, Pacific Northwest Extension
Publication

Honey Bee Best Management Practices for California Almonds, Almond Board of California

Cc: Mr. Jim Jones, EPA Assistant Administrator, Chemical Safety and Pollution Prevention
Mr. Michael Goodis, Pesticide Re-evaluation Division
Ms. Marietta Echeverria, Registration Division
Mr. Rick Keigwin, Director, Pesticide Re-evaluation Division
Ms. Susan Lewis, Director, Registration Division