

MCFA

Minor Crop Farmer Alliance

April 30, 2014

Mr. Jack Housenger
Director, Office of Pesticide Programs
c/o OPP Docket
Environmental Protection Agency Docket Center
EPA/DC (2822IT)
1200 Pennsylvania Avenue, NW
Washington, DC 20460-0001

Re: Pesticides; Consideration of Spray Drift in Pesticide Risk Assessment; Notice of Availability and Request for Comment. Docket ID No. EPA-HQ-OPP-2013-0676.

Dear Mr. Housenger:

These comments are submitted by the Minor Crop Farmer Alliance (“MCFA”) on the subject notice published in the Federal Register on January 29, 2014, 79 Fed. Reg. 4691-93, (the “Notice”). 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 of pest management tools including pesticides that are environmentally sound. While our commodities are often called “minor crops,” they are vitally important components in our diets and they contribute 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) commodity crops. Specialty crop production accounts for more than \$60 billion, or approximately 40% of total U.S. crop receipts.

In general, it is clear that if the draft *Guidance on Modeling Offsite Deposition of Pesticides via Spray Drift for Ecological and Drinking Water Assessments*; and *Residential Exposure Assessment Standard Operating Procedures (SOPs), Addenda 1: Consideration of Spray Drift* (“Guidances”) are finalized in their current form, they will significantly negatively impact the availability, flexibility, and uses of pesticides relied on to produce our Nation’s food supply as well as that for other countries to which our country exports. They will also impact other, non-food sectors of the US agricultural industry that also rely on these products to combat a variety of plant pests and diseases. The Guidances will increase the difficulty incorporating these pesticides into agricultural operations as potential mitigation measures that, from a practical perspective, eliminate the use of such tools in agricultural operations.

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Specifically, MCFA first believes that the default values being used in the models driving the Guidances are not representative of actual pesticide applications and may require buffer zones that are so large that, from a practical perspective, the pesticide cannot be used. Rather, they represent conditions that occur at best, infrequently. One of MCFA's members, the Northwest Horticultural Council representing deciduous tree fruit growers in Idaho, Oregon and Washington has submitted comments that highlight this problem. Specifically, they point out how the Agency uses "the default value of Tier I Orchard/Airblast: Sparse (Young/Dormant) for the AGDrift assessments in orchard crops unless 'the label specifies certain application parameters to limit the spray drift potential.'" It appears that the airblast module in the model was not constructed to allow users to vary the parametric values. As a result, the worst case situation becomes the default condition. This is not representative of actual industry practice. Most orchard spraying does not occur when the orchard is dormant, when no leaves are present. The Northwest Horticultural Council documents the timing of the actual application practices. It is when the leaves are present on the trees. Certainly the model output would be expected to vary significantly based on an assumption that spray is being applied when no leaves are present versus when the tree canopy contains leaves. Furthermore the Agency should consider the adequacy of current product label requirements and drift technologies, before rushing to embrace the output of models such as reflected in the draft Guidances that may severely further restrict the availability of these important products through unwarranted additional label restrictions.

Clearly, the models in their current form grossly overestimate the amount of potential residue deposition from pesticide applications. As a result, mitigation measures such as buffer zones will be unreasonably large. This has a direct impact on a grower who is trying to apply a pesticide treatment to protect his crop from plant pests. In such circumstance, some portion of their cropland will be left untreated because of the resulting buffer zones that are required based on the faulty assessment. Growers can appreciate the need to take reasonable steps to protect the environment, including the use of buffer zones. However, they will object when the basis for such mitigation measures is faulty, predicated on unreasonable assumptions that are not reflective of actual use conditions.

Additionally, it is believed that if the models of the Guidances are adopted, they will play a prominent role in the Agency's analysis of the potential endangered species impacts from a pesticide use, including their habitat. MCFA does not take issue with the basic goals of the Endangered Species Act (ESA) and appreciates that EPA considers potential ESA impacts in making pesticide regulatory decisions. However, MCFA wants to make certain that in making such decisions, the Agency does not also significantly overestimate the risk of exposure to endangered species. Such over-estimating can lead to additional mitigation measures which are overbroad, unnecessary to adequately protect a species and adversely impact the economic well-being of the minor crop communities' ability to produce crops.

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Secondly, MCFA respectfully requests that the Agency further clarify the dimensions of the problem that the Agency seeks to address through the draft Guidances. It is clear that every year there are hundreds of thousands of commercial pesticide applications throughout the United States. NAAA, for example, estimates that aerial applicators alone treat nearly a million farms and approximately 71 million acres of cropland in the U.S. each year. That represents between 15-20% of the commercial pesticide applications to US commercial farms. That does not take into account the pesticide applications that are made by ground equipment each year. Regardless of the exact number of applications, it is important to note, the relatively small number of adverse incidents where it has been verified that people have been exposed to pesticide drift. However, additional steps continue to be taken to further reduce potential exposures to pesticides through drift management. This is occurring through the development of various delivery systems and new technologies such as improved spray nozzles, improved booms and boom configuration, and improved adjuvants.

Lastly, and most importantly, MCFA strongly suggests that no action be taken to finalize the draft Guidances until the Agency has completed its drift reduction technologies (DRTs) program which is designed to help minimize off-target exposures, a project that it initiated almost 10 years ago. Periodically EPA has recognized that the incorporation of such DRTs could significantly affect pesticide risk assessments because of their ability to reduce drift up to 75% based on the particular technology being employed. It is not at all clear how such DRTs will be taken into account in the risk assessment process. Given the potential label use restrictions that would result from adoption of the draft Guidances in their current form, it is strongly recommended that EPA re-sequence the process to complete the development of the DRTs, and then reevaluate the draft Guidances. After that entire process is completed, the Agency will be better positioned to make science-based regulatory decisions that affect the use of a product. Simply finalizing the draft Guidances before the DRTs program is completed will lead to unduly conservative regulatory decisions that can only serve to adversely affect the user community. Because of their ability to affect spray drift, the Agency must affirmatively incorporate these technologies into their assessment decision making process. It is simply unreasonable to not fully consider them in addressing the spray drift issue.

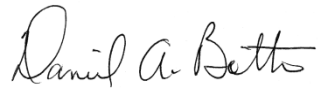
The Agency continually announces that its goal is to make science –based regulatory decisions. MCFA concurs in that approach. However, if the Agency is truly committed to such a science-based approach in this case, it would incorporate the science of existing spray technologies into its decision-making process. This would serve the interests not only of the agricultural community, but the public as well. Making the adjustments described above is not easy. It will require additional thought and effort. Regardless, MCFA members believe it is worthwhile.

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In view of the foregoing, MCFA believes the Agency can appreciate our members' concerns with the draft Guidances. These concerns are shared by many other stakeholders including, for example, the National Agricultural Aviation Association ("NAAA"), and Crop Life America ("CLA"). MCFA supports the comments of those associations and strongly encourages EPA to carefully consider those comments.

Sincerely,



Daniel R. Botts
Chairman, MCFA Technical Committee