



PPC

PESTICIDE POLICY COALITION
A Coalition Working for Sound Pest Management Policies

www.pesticidepolicy.org

August 28, 2015

Office of Pesticide Programs (OPP)
Regulatory Public Docket (7502P)
Environmental Protection Agency
1200 Pennsylvania Ave, NW
Washington, DC 20460-0001

**Re: Comments of the Pesticide Policy Coalition Regarding EPA's
"Proposal to Mitigate the Exposure to Bees from Acutely Toxic Pesticide
Products." [Docket ID: EPA-HQ-OPP-2014-0818]**

The Pesticide Policy Coalition ("PPC") is pleased to submit comments to the U.S. Environmental Protection Agency ("EPA") regarding this proposal regarding pollinator protection.

PPC is an organization of food, agriculture, forestry, pest management and related entities that support transparent, fair and science-based regulation of pest management. PPC members include: nationwide and regional farm, commodity, specialty crop, and silviculture organizations, cooperatives, food processors and marketers, pesticide manufacturers, formulators and distributors, pest- and vector-control operators, research organizations, and other interested parties. PPC serves as a forum for the review, discussion, development and advocacy of pest management policies and issues important to its members.

Pesticide registrants will separately submit comments on the proposal both as individual manufacturers and as part of the CropLife America comments on the subject. These comments by the PPC, which include a wide variety of grower groups representing thousands of farmers and ranchers involved with agricultural production, will especially focus on the possible impacts on agricultural producers who daily apply pesticide products as part of their production system and would be impacted by EPA's proposal. Generally, PPC is supportive of programs designed to improve pollinator health. However, we are concerned the current proposal could have significant adverse consequences for growers with little guarantee of improving pollinator health. The PPC does not believe this plan is based on a transparent risk-based analysis of how the possible impacts and costs of the proposal are justified or will result in any clear improvement in pollinator health.

Thousands of growers routinely use contracted pollinator services with little incident; many more routinely use pesticide products in and around beekeeper operations with relatively few reports of significant problems. Impacts on hives, or populations of bees, are dependent on many variables including, but not limited to, availability of good habitat and forage, weather conditions, exposure to pesticides, transportation issues, and diseases and mites. These many considerations appear absent in EPA's proposal.

In sum, PPC would like to specifically address the following concerns:

- 1) EPA's "one size fits all" approach limits flexibility agricultural producers need in some pest control situations;
- 2) State managed pollinator protection plans ("MP3s) need to be developed with significant grower involvement which will require more time and resources than what EPA appears ready to provide;

3) EPA has not followed its procedures and policies to guarantee that regulatory actions will be based on chemical specific risk-benefit analysis, which could result in inappropriate or unnecessary restrictions on pest control tools available to growers;

4) EPA's requests about "uncertainties" show the premature nature of EPA's proposals; and

5) Our perception is that in its rush to "do something" (for example, propose label changes before the 2016 growing season), even though numerous chemical or crop specific considerations will remain unresolved for some time, EPA has caused considerable concern for many growers. EPA's proposal would be improved with a step-wise approach to any program for label changes including public meetings with agricultural and other stakeholders to more fully develop any implementation strategy.

1. "One Size Fits All" Approach Is Inappropriate

EPA's attempt to fashion a single set of requirements for all pesticide applications under contracted pollination services regardless of the varied growing conditions for crops is too narrow and cannot accommodate site and crop specific conditions. In some cases, growers using contracted pollination services may need more flexibility than suggested EPA's proposal. Potential harms can be prevented either by notification to the beekeeper ahead of time, an understanding of unique situations where both the grower and beekeeper come to an agreeable accommodation, or other site and context specific solutions (such as applications at certain times or at certain temperatures). Communication and coordination between grower and beekeeper is key; one set of inflexible requirements may not be able to cover the many different situations which might arise.

Growers and beekeepers have mutual incentive to prevent harm to the bees. The growers need the bees, and the bee keepers need customers, as well as access to farms for honey production. EPA has not identified how many of the tens of thousands of commercial interactions would need the specific language that is being imposed. Ironically, EPA's proposal would give incentive to growers to prohibit beekeepers from their property in order to avoid violating the proposed restrictions, even if the beekeeper would want to place bees on the property despite the potential for certain pesticide applications. We are aware of reports of this occurring in certain growing areas including citrus and cotton.

One approach which could inform EPA's thinking on the pollinator issues is to organize a series of workshops or similar public forums, held outside of Washington, DC in major agricultural production regions. Such meetings could be organized by state and federal agricultural officials to gather input about relevant local or regional conditions. Questions about whether local conditions warrant additional restrictions, discussing strategies for avoiding adverse pollinator impacts, and designing cooperative approaches for better communication could not only provide EPA with useful information but also be part of the development of the state pollinator protection plans also included in EPA's proposal.

EPA should assess each of the active ingredients individually to evaluate which products and which uses might require new label language or other mitigation. With a long list of 76 active ingredients proposed for new restrictions, there is no apparent evaluation of the individual characteristics of each pesticide, to determine which can be used safely when the label use directions are followed. As others have pointed out, nighttime application of certain pesticides which have low residual toxicity will avoid problems for pollinators by morning. In other cases, some pesticides might pass EPA's arbitrary screening criteria but still may be toxic to bees. In any case, there is no allowance for the beekeeper and grower to agree to an acceptable plan of action to prevent problems. EPA needs to refine its risk

assessments of each pesticide and suggest any needed restrictions given the specific use pattern.

EPA's proposal adds risks to long-standing business relationships that have had little problem with bee issues and generally operated on a relatively informal level.

2. State MP3 Plans

PPC supports the approach of developing "State Managed Pollinator Protection Plans (MP3s)" as a voluntary management tool to reduce the potential exposure of bees to pesticides, while providing flexibility to growers and beekeepers. PPC appreciates that MP3s can provide a framework for beekeepers, growers, pesticide applicators, and land managers to communicate in a manner that allows all parties to operate successfully. Through open communication, stakeholders can mitigate potential pesticide exposure to bees and allow for the effective management of various stressors.

These plans should be designed to allow for appropriate flexibility to accommodate site and crop specific conditions. State officials need to have a lead role developing not only these plans but also in implementation of any pollinator protection strategy. State officials have authority under the law to impose any state-appropriate restrictions and they will have better knowledge of local growing conditions and situations.

PPC supports EPA's decision to allow states to have the flexibility to fashion their own plans instead of requiring EPA approval of state plans. EPA can act as a clearinghouse for the various state plans and should provide some financial support to host meetings, pay for any publications, and monitor effectiveness.

States will also need time, in addition to the financial support, to fully develop appropriate plans. Growers, beekeepers and other stakeholders will need to be active participants in devising acceptable and reasonable plans. Organizing input from appropriate stakeholders may take some time, but will be needed to fashion effective state programs. As mentioned earlier, public workshops could be held in various agricultural production regions to better inform state and federal officials about local conditions and such a forum could be used to help fashion state plans. USDA data indicate that over 85% of fees paid for pollination services come from five crops issues (source: USDA Economic Research Service, September 2014: US Pollination–Services Market) – and major production areas for those crops may suggest good places to hold workshops with stakeholders to discuss these issues. Further information gathering on which crops use pollination services is needed as well. The ERS report includes grapes as one of the top five crops relying on pollination services. However, based on conversations with regional grape associations and national beekeeper associations that is incorrect. Grapes are wind pollinated and growers do not enter pollination service contracts. A conversation with involved stakeholders would clarify and/or confirm this kind of information.

3. EPA Procedures Have Not Been Followed

EPA generally has evaluated regulatory concerns on an individual pesticide basis, using the appropriate statutory and regulatory assessment procedures under EPA’s registration and registration review processes. As part of registration review, any necessary risk-benefit mitigation is, as required, carried out on the crop specific label. This procedure does not appear to have been followed for many recent actions taken by EPA related to pollinators; instead, EPA has issued policies applying to broad categories of products rather than through individual risk-benefit assessments as required by FIFRA.

“Regulation by letter” is inappropriate as it imposes blanket requirements on large groups of chemicals and uses regardless of the individual characteristics of the formulation and the crops on which it is used. For growers, it means an assessment of any risks, or benefits, of the crop specific considerations are not evaluated. Evaluation of pesticide products should follow established procedures which consider the specifics of the use in question. This also allows the underlying science relevant for the specific use to be appropriately considered.

EPA’s proposal is explicitly keyed to a hazard-only based criterion as the basis for its labeling proposal. As other commenters have pointed out, the hazard threshold used in the proposal may capture some pesticides inappropriately while leaving other products outside its scope. This is a departure from the established review procedures and is likely to result in an incomplete analysis of the environmental risks and benefits of the pesticide product and will make comparison to alternative products less reliable.

EPA also needs to estimate and compare the benefits of the pesticide products before imposing additional restrictions; little or no mention of benefit assessments is found in the proposal.

4. **“Uncertainties”**

EPA invites comment on a number of “uncertainties” in its proposal. To some extent, this is at least an admission of areas where the proposal is not quite complete or thorough and more clarification is needed. However, at the same time, EPA’s plans described earlier in the proposal do not acknowledge any flexibility in its planned approach. So it is not clear what steps EPA may take to address the “uncertainties” laid out in the proposal.

The example of indeterminate blooming crops is mentioned as one uncertainty. Cucurbits, alfalfa seeds, caneberries, and spinach seeds are among such crops on which growers may use pollination services. Some commodities are grown as functional indeterminate crops in the field, as is frequently the case with blueberry. Varieties with different blooming periods are planted in the same field so as to stagger the harvest. The prohibition of 76 AIs would likely spell the end to such practices, costing production and jobs. Current practices appear to address risks to honey bees, otherwise commercial beekeepers would not offer their services to these growers. EPA acknowledges some uncertainties in such situations, but the flexibility needed to address such scenarios would not be allowed under the proposed restrictions.

Tank mixes and fungicides are mentioned as another uncertainty. The California Almond Board now has Best Management Practices (BMP) to address possible risks from tank mixes which have been of interest in recent years. This will help reduce any risks that are present, but eliminating tank mixes, as some have suggested, are not practical for many growers. Timing (the onset of certain pest problems) and cost (another pass in the field) considerations make using tank mixes necessary in some situations. Growers need to retain the flexibility to control both the pests and production costs while accommodating practices to reduce risks to pollinators.

5. EPA Is In a Rush To “Do Something!”

PPC supports attempts to enhance pollinator health. *The National Strategy to Promote the Health of Honey Bees and Other Pollinators* (May 2015) includes various initiatives, especially those related to increased habitat and forage opportunities for pollinators, which will enhance pollinator health. EPA actions regarding pesticides will also play a role.

However, as recounted in these comments, numerous questions and shortcomings remain in the EPA proposal which will need to be addressed before a viable, effective, and scientifically supportable plan can be put into place. One example is the long and winding path to determine simply the names of pesticides that might be affected. EPA released a list of 76 active ingredients; when asked how many pesticide products this covered, along with the product names so that users could assess the possible impact, EPA was unable to answer the question. There are over 3600 pesticide products which will be affected by EPA's plan, and only recently has an estimated list of product names been derived by CropLife America (not EPA) to inform users of what might be at stake for their pest control options. These questions impact the registrant community, but most importantly, impact the grower and pesticide user community who depend on a variety of tools to best control pest and weed issues.

During the public webinar held about the proposal, EPA indicated that implementation of the planned label changes would occur before 2016. To do so, EPA would have to assess these thousands of labels and indicate what changes were needed; the only way this would be possible is to once again issue an inflexible policy covering all or most of the announced list – regardless of situation or use specific considerations. In addition to violating the fundamental legal requirements of FIFRA when seeking to impose new label requirements, this approach would not allow time for pesticide users to participate substantially in any mitigation discussions. Reliance on state plans to supplement new label changes would also be premature; only a handful of states currently have plans in place (California, Colorado, Florida, Mississippi, and North Dakota), although many are under development. Without additional resources and manpower to adequately develop and monitor state plans, this component of the strategy is also premature.

Overall, EPA once again appears to be in a hurry to “do something.” It is not clear how a scattershot approach derived from a hazard-only approach which does not follow established procedures and requirements can be justified. A more carefully thought out program, involving state partners and all stakeholders who are interested, to evaluate and suggest improved strategies for communication and coordination between pesticide users and beekeepers would be a preferable approach. Research on current agricultural practices including specific regional cropping patterns and as well as husbandry practices utilized by the bee keeping community would be valuable information to have in order to make proper and necessary decisions on stakeholder interactions and pesticide label instruction.

The Pesticide Policy Coalition looks forward to working with you on this very important issue.

Sincerely,



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