american seed trade association

January 17, 2017

Environmental Protection Agency
Office of Pesticide Programs
1200 Pennsylvania Ave., N.W.
Washington, D.C. 20460-0001
Submitted via Regulations.gov

Re: *Chlorpyrifos: Tolerance Revocations; Notice of Data Availability and Request for Comment. Docket No. EPA-HQ-OPP-2015-0653*

To whom it may concern:

The American Seed Trade Association is a member of the Pesticide Policy Coalition (PPC) and we support the detailed comments submitted by that organization. Founded in 1883, the American Seed Trade Association (ASTA) is one of the oldest trade organizations in the United States. Its membership consists of over 700 companies involved in seed production and distribution, plant breeding, and related industries in North America. ASTA represents all varieties of seeds, including grasses, forages, flowers, vegetables, row crops and cereals.

Chlorpyrifos is a long-standing and important seed treatment for sweet corn, edible dry beans, garden beans and peas and cucumber for seed-corn beetles and seed-corn maggots. As a seed treatment, it is used by seed producers and also vegetable farmers and is particularly effective and necessary in situations where there is significant pest pressure. As no or reduced-till production systems have become more prevalent due to their soil benefits, the corresponding insect pressures have also increased. However, there are only a few products registered for use as seed treatment insecticides.

Seed producers and farmers base their seed treatment decisions on historical pest pressure as part of their Integrated Pest Management programs. Without the ability to use chlorpyrifos, entire production fields could be lost. Due to the high value of vegetable seed, this would cause significant economic

damage. Chlorpyrifos seed treatments are a cost effective way to minimize and target the insecticide application in comparison to foliar and soil applications. As an organization, we support maintaining a robust toolbox of products to help farmers fights pests which can hurt yield and be vectors for disease.

The PPC comments note several substantive concerns related to the data and process used by EPA to inform their decision to propose the revocation of tolerances for chlorpyrifos. We recommend that EPA complete its formal registration review process for chlorpyrifos under the regulatory framework and statutory standards set forth in the Federal Insecticide Fungicide, and Rodenticide Act and (FIFRA) Federal Food, Drug and Cosmetic Act (FFDCA).

Sincerely,

A. W. LaVigne

Andrew LaVigne
President and CEO

CALIFORNIA FARM BUREAU FEDERATION
FEDERAL POLICY DEPARTMENT
2300 RIVER PLAZA DRIVE, SACRAMENTO, CA 95833-3293 · PHONE (916) 561-5610 · FAX (916) 561-5693

June 10, 2016

U.S. Environmental Protection Agency
1200 Pennsylvania Ave, N.W.
Washington, DC 20460

Docket No. EPA-HQ-OPP-2008-0850-0856
RE: Biological Evaluations of Chlorpyrifos, Diazinon, and Malathion

The California Farm Bureau Federation (CFBF) appreciates the opportunity to provide comments on the biological evaluations of chlorpyrifos, diazinon, and malathion and request that the agency take into account the impact the agency's actions may have on farmers and ranchers. As the largest farm organization in California, CFBF represents over 53,000 farm families and individual members. These growers are engaged in the production of the widest range of agricultural products and in many instances are critically dependent on pesticide products regulated by the U.S. Environmental Protection Agency (EPA).

CFBF has extensive policy regarding the safe use of pesticides to insure a reliable, high quality supply of safe, nourishing, and affordably priced food and agricultural commodities. Organophosphates (OPs) provide a number of beneficial uses to farmers for a wide range of crops. They can be readily implemented into an integrated pest management (IPM) program, as well as insect resistance management (IRM) programs. OPs also work readily in tank mixes while providing flexible timing and method of application; they have a history of usage and familiarity for growers while providing effective, consistent pest control.

To cite one example, chlorpyrifos is widely used on a broad spectrum of crops, including apples, almonds, broccoli, cherries, cotton, dry beans, grapes, sunflowers, onions, and watermelon among many others. For an exhaustive discussion of its uses and benefits, we refer the agency to a document prepared by Dow Agro Sciences (DAS), viz., http://storage.dow.com.edgesuite.net/dowagro/chlorpyrifos/Use_and_Benefits_of_Chlorpyrifos_in_Agriculture_2016.pdf. This carefully prepared paper delineates the many uses and benefits of the product and underscores its importance for production agriculture.[1]

Because of the important benefits OPs provide to agriculture, CFBF wishes to register its strong concern about EPA's approach in this proceeding. We strongly urge the agency to revisit its assumptions and revise its thinking because we believe the agency appears to be establishing an approach that will result in nearly irreparable impacts on farmers.

As a general remark, we note that the agency has released in this docket a series of papers and materials that constitute over 12,000 pages of highly technical text, scientific assumptions and

[1] Included in this document as Appendix A is a copy of CFBF's comments filed on December 21, 2015 when the agency announced it was considering revoking all tolerances for chlorpyrifos. The comments also contain details about the benefits and usage of chlorpyrifos in California.

evaluations and consequent judgments. It is nearly impossible for farmers and ranchers to examine such a wealth of data in the amount of time provided by the agency and respond in a meaningful manner. As a result, the agency's process may well fail to live up to the statutory guidelines laid down by Congress, under which the agency is instructed to take into account the impacts of its pesticide evaluations on farmers. Accordingly, we caution the agency that its actions may well prove highly detrimental to agriculture.

Additionally, the approach itself that EPA appears to favor presents problems. For instance, we are fearful that the agency may be proceeding in a manner that injects a 'precautionary principle' approach into its evaluations and decisions. Such an approach is without precedent, flies in the face of the law and should not be adopted.

EPA has an obligation, scientifically and validly, to evaluate the risk and exposure scenarios posed by a given chemical – in this instance, the three OPs under consideration. It appears that EPA has purposely chosen very low effects endpoints and unrealistic levels of exposure that artificially inflate 'likely to adversely affect' (LAA) determinations. We anticipate that others will file related comments to these dockets underscoring flaws in EPA's methodology and how that methodology overstates potential risks and exposures. We strongly advise the agency to consider such comments carefully. While CFBF does not retain professional staff trained in biological evaluations, we are concerned that the agency has apparently adopted a methodology that overstates risk/exposure scenarios, the impact of which will be to limit the availability of these OPs to farmers, thus undermining the ability of farmers to manage their lands efficiently, productively and profitably. In a similar vein, EPA apparently is relying on provisional models and approaches that are defective (one spatial distribution estimate reportedly has several whale species occupying habitat in Indiana).

For these reasons – the limited time available to affected stakeholders to provide comment; the voluminous amount of highly technical material; the potentially broad and negative impact on growers; the flawed methodology adopted by the agency; the overly conservative assumptions embedded in the agency's approach; and the adoption of a precautionary approach that is not consistent with the law – we urge the agency to carefully reconsider its approach and not proceed as outlined in these biological evaluations.

We value the opportunity to provide comments to the agency.

Sincerely,

Chelsea Molina
Legislative Analyst

Appendix A

CALIFORNIA FARM BUREAU FEDERATION
GOVERNMENTAL AFFAIRS DIVISION
1127 11TH STREET, SUITE 626, SACRAMENTO, CA 95814 · PHONE (916) 446-4647

December 21, 2015

Docket, Environmental Protection Agency
Mailcode 2822IT
1200 Pennsylvania Ave, NW Washington, DC 20460

Chlorpyrifos Tolerance Revocations
Docket ID No. EPA-HQ-OPP-2015-0653

The California Farm Bureau Federation would like to submit the following comments on the U.S. EPA proposal to revoke all tolerances for the insecticide chlorpyrifos in response to a court-ordered deadline. As the largest farm organization in the state representing over 53,000 farm families and individual members, Farm Bureau works to find solutions to problems faced on the farm and throughout the rural community in California.

We have extensive policy regarding the safe use of pesticides to insure a reliable, high quality supply of safe, nourishing, and affordably priced food and agricultural commodities. We support reducing pesticide risk and danger where they actually exist. But in the absence of a refined, realistic and comprehensive drinking water analysis, proposing the revocation of all or any chlorpyrifos tolerances is unjustified.

Products containing chlorpyrifos are critical to California agriculture. They are one part of comprehensive Integrated Pest Management programs and provide benefits for both small and large farm operations, including maximizing yield and yield quality, and contributing to insect resistance management.

The California Department of Pesticide Regulation use reporting database indicates there were close to sixty crops that were treated with chlorpyrifos products in 2013, on approximately 1.3 million acres. There are no known areas with drinking water concerns related to use of chlorpyrifos in California. Listed below are the crops obtained from the DPR database that benefit from having chlorpyrifos available.

California Farm Bureau
Chlorpyrifos Tolerance Revocations
Docket ID No. EPA-HQ-OPP-2015-0653

2013 Pesticide Use Reporting
http://www.cdpr.ca.gov/docs/pur/purmain.htm

Table 7: *The reported pounds of pesticides used that are cholinesterase-inhibiting pesticides.*

AI	2005	2006	2007	2008	2009	2010	2011	2012	2013
CHLORPYRIFOS	2,031,348	1,928,989	1,442,521	1,368,568	1,248,584	1,288,733	1,300,202	1,104,428	1,460,672

Table 8: *The reported cumulative acres treated with pesticides that are cholinesterase-inhibiting pesticides.*

AI	2005	2006	2007	2008	2009	2010	2011	2012	2013
CHLORPYRIFOS	1,681,634	1,538,958	1,154,681	1,162,654	935,588	1,097,107	1,188,150	1,053,936	1,288,690

CHLORPYRIFOS

Commodity		Pounds Applied	Applications	Treated	Type
Alfalfa		193,653.45	6,991	439,496.28	A
Almond		448,672.96	2,580	240,686.91	A
Apple		3,631.20	96	2,187.05	A
Apricot		1.45	2	0.64	A
Asparagus		10,135.32	174	10,465.56	A
Avocado		26.28	2	8.00	A
Barley		35.47	2	133.00	A
Bean, Dried		486.18	34	535.00	A
		394.34		715,600.00	P
Total Pounds On This Commodity	880.52				
Bean, Succulent		243.52	15	255.00	A
Bermuda grass		37.50	1	4.00	A
Bok Choy		1,283.19	184	1,269.00	A
Broccoli		6,985.12	385	5,366.62	A
Brussels Sprout		764.05	72	986.66	A
Cabbage		3,030.86	308	3,166.31	A
		14.66	3	19.86	U
Total Pounds On This Commodity	3,045.53				
Cabbage, Savoy		12.97	2	19.00	A
Canola (Rape)		29.59	1	14.00	A
Cauliflower		867.33	100	771.51	A
Cherry		938.07	30	514.68	A
Chinese Cabbage (Napa)		89.88	26	111.02	A
Christmas Tree		4.00	1	4.00	A
Citrus		543.39	23	179.95	A
		0.04	2	92.00	U
Total Pounds On This Commodity	543.43				
Collard		73.81	13	137.37	A
Commodity Fumigation		21.16	1	45.00	?
		1.00			
Total Pounds On This Commodity		22.16			
Corn (Forage-Fodder)		40,433.78	1,110	54,224.60	A
Corn, Grain		827.21	28	1,308.20	A
Corn, Human Consumption		9,216.82	155	9,927.01	A
Cotton		157,790.22	1,525	169,015.74	A
Cucumber		0.74		5,562.32	P
		0.14		3,527.75	U
Total Pounds On This Commodity	0.88				
Daikon		1.26	2	2.75	A
Gai Choy		1.20	1	0.20	A
Gai Lon		156.38	43	154.50	A
Grape		75,964.14	833	42,749.07	A
Grape, Wine		37,917.82	332	20,582.71	A

California Farm Bureau
Chlorpyrifos Tolerance Revocations
Docket ID No. EPA-HQ-OPP-2015-0653

Grapefruit		2,273.39	91	1,284.70	A
Guava		0.70	1	2.00	A
Kale		242.23	44	332.09	A
		15.26	1	20.35	U
Total Pounds On This Commodity	257.49				
Landscape Maintenance		372.96			
Lemon		30,129.83	545	9,937.10	A
Lettuce, Leaf		10.50	1	10.00	A
Lime		9.39	4	23.25	A
Mustard		29.65	5	88.88	A
N-Grnhs Flower		81.08	61	189.83	A
		70.82	36	1,290,749.00	S
Total Pounds On This Commodity	151.91				
N-Grnhs Plants In Containers		187.91	139	4,090,930.00	S
		70.01	45	68.42	A
Total Pounds On This Commodity	257.93				
N-Grnhs Transplants		3.19	6	1.78	A
		2.37	11	274,340.00	S
Total Pounds On This Commodity	5.	56			
N-Outdr Flower		543.42	175	1,283.50	A
		128.93	37	778,824.00	S
Total Pounds On This Commodity	672.34				
N-Outdr Plants In Containers		649.82	242	1,007.34	A
		55.07	52	1,325,020.00	S
		2.40	6	9,300.00	U
Total Pounds On This Commodity	707.29				
N-Outdr Transplants		575.78	55	473.11	A
		0.51	19	16,755.00	S
Total Pounds On This Commodity	576.29				
Nectarine		1,891.56	88	1,360.61	A
Oat (Forage -Fodder)		82.67	3	88.00	A
Onion, Dry		5,142.22	123	5,824.41	A
Orange		152,323.91	1,917	49,740.21	A
Orchard Floor		38.48	5	21.50	A
Peach		5,513.48	143	2,655.44	A
Pear		98.32	6	50.50	A
Pecan		1,874.71	38	1,370.50	A
Pistachio		0.13	1	40.00	A
Plum		1,124.79	65	730.43	A
Pomelo		248.27	12	85.50	A
Prune		473.20	11	254.70	A
Public Health		0.88			
Radish		1,219.34	266	720.12	A
Regulatory Pest Control		10.54			
Research Commodity		78.05	14	39.51	A
		31.18			
Total Pounds On This Commodity	109.24				
Rights Of Way		987.81			
		1.88	1	2.00	A
Total Pounds On This Commodity	989.69				
Soil Fumigation/Preplant		10.69	4	11.34	A
Sorghum (Forage -Fodder)		2,536.87	55	4,193.60	A
Sorghum/Milo		2,900.35	77	5,019.79	A
Squash		6.15	10	40.00	A
Strawberry		8,196.40	207	8,405.08	A
Structural Pest Control		1,661.28			

Sudan grass		1,276.47	40	1,279.70	A
Sugar beet		35,114.88	704	47,668.7	A
Sugar beet (Forage -Fodder)		122.74	3	162.00	A
Sunflower		1,071.39	19	1,253.00	A
Sweet Potato		1,475.28	30	728.60	A
Tangelo		947.76	31	529.20	A
Tangerine		23,314.52	523	15,882.31	A
Turf/Sod		854.52	29	606.65	A
Turnip		57.35	38	28.09	A
		0.63	7	21,000.00	S
Total Pounds On This Commodity	57.97				
Uncultivated Ag		55.02	5	89.50	A
Vertebrate Control		9.48			
Walnut		166,208.21	2,623	91,422.74	A
Wheat		3,414.76	107	7,248.04	A
Wheat (Forage -Fodder)		10,554.57	320	21,978.61	A
Chemical Total		**1,460,672.45**	**24,178**		

U.S. EPA has presented no justification to revoke any of these tolerances and all should be retained. As the Agency produces refined information on drinking water risk and economic impact, we would suggest that analysis should be representative of realistic scenarios in key areas of use, including the State of California.

We look forward to working with the Agency as they finalize this important policy decision.

Sincerely,

Cynthia L. Cory

Cynthia L. Cory
Director, Environmental Affairs

CALIFORNIA COTTON GINNERS AND GROWERS ASSOCIATIONS

1785 N. Fine Avenue
Fresno, CA 93727
Telephone: 559 / 252-0684
Fax: 559 / 252-0551

August 28, 2018

Nancy Beck
Deputy Assistant Administrator
Offices of Chemical Safety and Pollution Prevention
Office of the Administrator
U.S. Environmental Protection Agency
1201 Constitution Avenue, NW
Washington DC 20460

via email: beck.nancy@epa.gov

Dear Ms. Beck,

The California Cotton Ginners and Growers Association (CCGGA) represents all of California's cotton production, nearly 260,000 acres, and represents 100% of the cotton ginning industry in the state on regulatory and legislative issues that affect the cotton production industry such as pesticides, safety, water, labor, and air quality issues.

Our Association is requesting that the Environmental Protection Agency (EPA) request a rehearing of the recent decision of the U.S. Court of Appeals for the Ninth Circuit ordering EPA to revoke tolerances and registrations for this product. Our Association wishes to convey the severly negative impact that will be felt by all of California cotton growers should the action to revoke all tolerances and registrations of chlorpyrifos is to be done. Chlorpyrifos has proven to be a critical pest management tool to more than 50 crops grown in the United States, cotton is no different. In particular, this product is often used to suppress or eliminated invasive pests that will not respond to other chemistries.

Just a few years ago our Association in partnership with the University of California's Integrated Pest Management (UCIPM) program evaluated the crop protection tools available for the industry and what alternatives are available for the key cotton pests. Of several pests two in particular were identified to have no or few alternatives to chlorpyrifos for control, whitefly and aphid. Both of these pests are devastating to the cotton industry. In the later part of the season, if proper control is not achieved, high populations of whitefly and aphid infest a field and secrete an excrement "honey dew". This honey dew creates a stickiness to the exposed lint resulting in problems in the spinning and processing down the line. Developing a reputation for stickiness will destroy a region's, such as the San Joaquin Valley's, ability to market high value cotton. UCIPM cited whitefly as Key Pest for chlorpyrifos use. Tank mixes with chlorpyrifos are ***required*** to control adult whiteflies in addition chlorpyrifos is one of the ***only active ingredients*** that have efficacy and plant canopy penetration to manage late season cotton aphid. The other active ingredient is malathion, which as we speak is facing additional mitigation measures as a result of the National Marine Fisheries Service Biological Opinion.

Cotton production and the agriculture industry as a whole are faced with trying times as they try to protect their crops and livelihood. As crop protection tools are mitigated to the point of no feasible use, producers face the growing problem of insect resistance to what few products remain. The revocation of tolerances and cancellations of registrations would be a death sentence for the California cotton industry. Our Association respectfully asks that EPA take action to help protect the livelihood of the California cotton industry by petitioning for a rehearing in light of the decision with the Ninth Circuit Court. The actions as a result of this decision will create a precedent for all other crop protection tools, an action that the agricultural industry simply cannot afford. The goal to protect human health and insure safe use and practice with registered chemistries is not only held by EPA, but is a shared goal with the farmers within our industry. Having utilized this product for over 50 years, our agricultural producers trust in the years of research, studies and scientifically-based regulations that this product has a place and a critical purpose in producing a safe and healthy food and fiber supply. We ask that you take our comments and concerns into consideration as you are making your decision. If you have any questions, please contact us.

Sincerely,

Jodi J Raley

Jodi Raley
Director of Regulatory Affairs

August 23, 2018

The Honorable Sonny Perdue
Secretary
U.S. Department of Agriculture
1400 Independence Avenue, SW
Washington, DC 20250

The Honorable Andrew Wheeler
Acting Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Dear Secretary Perdue and Acting Administrator Wheeler:

As organizations representing tens of thousands of American farmers and others who depend upon chlorpyrifos for pest management, we are deeply concerned about the recent decision of the U.S. Court of Appeals for the Ninth Circuit ordering EPA to revoke tolerances and registrations for this critical pesticide. This decision is unprecedented; no court has previously ordered EPA both to cancel uses and revoke tolerances for a pesticide. Its significance goes beyond just chlorpyrifos and threatens the established regulatory process for all crop protection tools.

Chlorpyrifos is used on 50 crops in 45 states, and has played a key role in pest management efforts in the U.S. and worldwide for over 50 years. Pesticides such as chlorpyrifos provide critical risk management tools to farmers and others by helping improve food production, protect health and safety, and ensure a vital and productive supply of food and fiber to our nation and world markets. For many invasive pests, growers face limited or no viable alternatives, and when an outbreak of a new pest occurs, users look to chlorpyrifos as a proven first-line of defense.

While the Court stated that EPA has not made a finding that chlorpyrifos tolerances satisfy the safety standard under the Federal Food, Drug, and Cosmetic Act ("FFDCA"), and has made conclusive scientific findings that chlorpyrifos is unsafe at the present regulatory standard, in fact the Agency has not changed its 2006 final determination done pursuant to statutorily-mandated reregistration that current chlorpyrifos uses meet the FFDCA's safety standard. The only EPA materials raising issues about that determination are preliminary, non-binding assessments made during the ongoing registration review of chlorpyrifos that are not final "findings." Moreover, these non-final assessments were based in large part on an epidemiology study that has been consistently criticized as unreliable for purposes of regulatory decision-making by EPA Scientific Advisory Panels, the U.S. Department of Agriculture, and many other interested stakeholders.

Further, the only legal avenue for EPA to "modify or revoke a tolerance" is to undertake the administrative process delegated to the Agency by Congress. That process has not been completed, and the Court cannot substitute its judgment for EPA and tell EPA the scientific conclusion it must reach. Finally, EPA's 2017 Order denying the administrative Petition to revoke tolerances, made after the Agency's consideration of relevant science-based comments from USDA and other interested stakeholders, expressed confidence that the current regulatory

standard is protective of human health. Two intensive reviews of chlorpyrifos completed in 2017 by the European Food Safety Authority and the government of Australia reached a similar conclusion.

The current EPA safety standard for chlorpyrifos properly rests on five decades of experience in use, health surveillance of manufacturing workers and applicators, and over 4,000 studies and reports that have examined the product in terms of health, safety and the environment.

Revocation of tolerances and cancellation of chlorpyrifos registrations would have a significant negative impact on growers and users in the United States and globally through effects on trade that need to be properly assessed. By eliminating through judicial action the science-based analysis and other steps that EPA must take under the FFDCA and the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), the Court would undercut the future ability of growers and users to employ essential risk protection tools. Further, by ordering EPA to rush into registration cancellation, the Court would force EPA to violate the longstanding procedural safeguards and other requirements provided by Congress under those statutes, robbing American growers, other users, and the registrant of their due process and other rights.

Based on the preceding, we respectfully urge EPA to petition for a rehearing en banc of this decision with the Ninth Circuit Court.

Sincerely,

Agricultural Retailers Association
Almond Alliance of California
American Farm Bureau Federation
AmericanHort
American Seed Trade Association
American Society of Sugar Beet Technologists
American Soybean Association
American Sugarbeet Growers Association
Beet Sugar Development Foundation
California Alfalfa & Forage Association
California Citrus Mutual
California Citrus Quality Council
California Cotton Ginners & Growers Association
California Dried Plum Board
California Fresh Fruit Association
California Specialty Crops Council
California Walnut Commission
Chemical Industry Council of Illinois
Cherry Marketing Institute
Corteva Agriscience™, Agriculture Division of DowDuPont™

Cranberry Institute
CropLife America
Delaware-Maryland Agribusiness Association
Delta Council
Florida Citrus Mutual
Golf Course Superintendents Association of America
Minnesota Crop Production Retailers
National Agricultural Aviation Association
National Association of Wheat Growers
National Corn Growers Association
National Cotton Council
National Council of Farmer Cooperatives
National Onion Association
National Sorghum Producers
New Jersey Farm Bureau
New Jersey Green Industry Council
New York State Chemistry Council
Northwest Horticultural Council
Oregonians for Food & Shelter
RISE – Responsible Industry for a Sound Environment
Schertz Aerial Service, Inc.
Society of American Florists
Texas Citrus Mutual
Texas Sorghum Producers
United Fresh Produce Association
U.S. Apple Association
US Beet Sugar Association
USA Dry Pea & Lentil Council
Washington Friends of Farms & Forests
Washington State Potato Commission
Western Agricultural Processors Association
Western Growers
Western Plant Health Association

Cc: Senate Agriculture Committee Chairman Pat Roberts
Senate Agriculture Committee Ranking Member Debbie Stabenow
House Agriculture Committee Chairman Michael Conaway
House Agriculture Committee Ranking Member Collin Peterson
The Honorable Jeffrey Wood, Acting Assistant Attorney General, Environment and Natural Resources Division, U.S. Department of Justice

MICHIGAN FARM BUREAU®
7373 West Saginaw Highway, Box 30960, Lansing, Michigan 48909-8460
Phone (517) 323-7000

September 11, 2018

The Honorable Sonny Perdue
Secretary
U.S. Department of Agriculture
1400 Independence Avenue, SW
Washington, DC 20250

The Honorable Andrew Wheeler
Acting Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Dear Secretary Perdue and Acting Administrator Wheeler:

Michigan Farm Bureau (MFB) is the state's largest general farm organization, representing more than 42,000 farm families. Our membership is comprised of successful and mindful producers who expand their operations through rigorous attention to detail and a willingness to adapt with industry advancements and technology.

Additionally, our members demonstrate an unparalleled ability to be innovative, efficient, and environmentally conscious by following best management practices when utilizing crop protection materials. Their stewardship of the land they farm, the water they use, and the conservation practices they follow is unrivaled. Furthermore, they practice applying crop protection tools at the right time, right place, right conditions, and right amount of product application.

Michigan is the second most diverse state in terms of agriculture commodities. Our menu of specialty crops includes more than:

- 32,000 acres of cherries, 36,000 acres of apples, 21,000 acres of blueberries, 4,000 acres of peaches, 1200 acres of pears, and 15,000 acres of vineyard vines.
- 160,000 acres of crops from asparagus, carrots, celery, cucumbers, green beans, squash, potatoes, tomatoes, turnips and sweet corn.

Specialty crops are vital to a balanced diet, offer significant nutritional value, and help uphold the agriculture industry as one of the state's strongest economic drivers. Growing these specialty crops is no easy task. Our members put their heart and soul into their farming operations, and utilizing the best crop protection tools on the market is imperative to their effectiveness, efficiency, and success in providing our state's food and fiber.

Michigan values and recognizes sound science, above all else, when it comes to the review process of registering crop protection materials at EPA. Recently, EPA has been court ordered by the Ninth Circuit Court of San Francisco to carry out a total revocation in 60 days for all tolerances and registrations for chlorpyrifos. This chemical compound has been in production for more than 50 years, used on over 50 crops in 45 states, and deemed the most widely used organophosphate broad spectrum insecticide in the United States. The safety of this compound stands on over 50 years of experienced use, health and safety of workers and applicators, and over 4,000 studies that prove scientifically, the safety of this product to

human health, and environmental impact. Michigan's specialty crop farmer members utilize this insecticide primarily as a trunk application, meaning it is applied early in the season to the base of the plant, not touching any part of the harvestable fruit or vegetable. Furthermore, it's mostly used as a onetime application, pre-season, to protect the tree/bush/plant from borer infestation. While there are some alternatives to chlorpyrifos, they have been proven less effective, have a narrower efficacy rate and require multiple applications.

Michigan Farm Bureau supports EPA's scientific, vetted, trusted processes and protocols for modifying or revoking a tolerance of a crop protection material through their administrative process which is delegated by Congress. For Chlorpyrifos, that process has not been completed, nor can a Court Order take the place of sound scientific evidence. If EPA were to revoke all tolerances within the 60 day window, going against the proper steps within the Federal Insecticide, Rodenticide Act, the court would inhibit the ability of growers and users to employ this essential tool. Furthermore, this action would force EPA to violate the longstanding procedural safeguards provided by Congress, supported by science, robbing Michigan's growers of their due process and other rights.

Therefore, we respectfully urge EPA to petition for a rehearing en banc of this decision with the Ninth Circuit Court.

Sincerely,

C. Bednarski

Carl Bednarski
President, Michigan Farm Bureau

American Crystal Sugar Company

August 27, 2018

Elizabeth T. "Tate" Bennett

Associate Administrator for Public Engagement and Environmental Education

Office of Public Engagement and Environmental Education, United States Environmental Protection Agency [EPA]

William Jefferson Clinton Building

1200 Pennsylvania Avenue NW

Washington, DC 20460

Dear Ms. Bennett,

My name is Tyler Grove, General Agronomist, American Crystal Sugar Company; we are deeply concerned about the recent decision of the U.S. Court of Appeals for the Ninth Circuit ordering EPA to revoke tolerances and registrations for Chlorpyrifos, a most critical pesticide in sugarbeet production. This decision is unprecedented; no court has previously ordered EPA both to cancel uses and revoke tolerances for a pesticide. Its significance goes beyond just Chlorpyrifos and threatens the established regulatory process for all crop protection tools.

American Crystal Sugar Company is a grower-owned cooperative comprised of 2,700 shareholder entities producing sugarbeets on approximately 400,000 acres of sugarbeets in the Red River Valley of the North, located in the eastern and northeast portions of North Dakota and northwest Minnesota. In my 23 years in the sugarbeet industry, I was previously an Agriculturist with American Crystal Sugar Company for 19 years and prior to that, a Crop Production Specialist for Cenex Land O'Lakes working with several crops including sugarbeets. Currently, I work with a staff of 24 Agriculturists, company management, and in collaboration with allied industry including research efforts in a combined effort for the efficient, sustainable, and profitable production of sugarbeets. Through research efforts and the mining of our in-house database archived reaching back 38 years, we strive to identify production practices that improve and direct the best methods of sugarbeet production practices. I have recommended the use of Chlorpyrifos, only as needed for the pest identified, over the course of 23 years in the sugarbeet industry. There are years where use is minor and those years where pest pressure warrants broader acreage applications.

We rely on the benefits of Chlorpyrifos for a variety of insect pests in sugarbeet including: Sugarbeet root maggot (SBRM), Wireworm, Darksided and Redbacked cutworm, Armyworm, Leafminer, Lygus bug, and Grasshopper. Chlorpyrifos is a popular option for its ease-of use, affordability, and broad spectrum management of sugarbeet

insect pests. SBRM are the most damaging insect we have faced as a Cooperative for many years now. Chlorpyrifos plays an important role in integrated pest management (IPM) programs for SBRM control across our production acreage.

Yield losses to SBRM can be slight to severe with losses of less than 3 tons per acre loss ranging to total field destruction. Published research (Boetel et al., 2010) has shown that post emergence applications of Chlorpyrifos for SBRM control can result in yield increases and therefore revenue benefits ranging from $85 to $128/acre. Losses as such are detrimental to profitability and sustainability. Chlorpyrifos is one of 3 main chemistries we utilize to combat SBRM, without Chlorpyrifos, our options for controlling SBRM is very limited as they are an in-season pest and the other two effective chemistries are granules, which have limited affect in dry soil conditions, whereas Chlorpyrifos can be more effective in the same conditions. A typical SBRM management approach is an at-plant granule followed by an application of Chlorpyrifos at peak-fly emergence, (broadcast or banded) and in a few instances, 2 applications are necessary. In this POST application method, Chlorpyrifos is the only liquid formulation insecticide option currently available for managing SBRM in sugarbeet.

In the past 10 years, we have witnessed a steady increase in SBRM presence in fly stake counts. The past production season, North Dakota State University fly stake counts were the highest they have counted in the last 11 years of expanded fly stake counts and going back to over 30 years of a reduced fly stake count program, with a 400% increase of counts in crop year 2015 compared to crop year 2014, so losing Chlorpyrifos now is only magnified with current fly presence and potentially future pressure. As recent as this growing season, we witnessed increased acreage of SBRM, and fly counts that exceeded the previous year. SBRM currently causes economic injury on an estimated 65,000 acres within our organization annually (Boetel, 2015) with acreage increasing in latter years. An additional estimated 18,000 – 20,000 acres or more are at-risk (Boetel, 2015) if left un-checked and considering if droughty conditions persist, realized decreased efficacy using only granules in the dry conditions, Neonic ineffectiveness or availability, and future potential resistance to current insecticide chemistries our acreage infestations could climb much higher. In the dry years of the late 1980's to early 1990's, our Cooperative had an estimated 200,000 acres (or about 20% of domestic sugarbeet production acreage) affected by SBRM, demonstrating an alarming potential damage possibility if we are left without the proper pest management tools, such as Chlorpyrifos.

We also have the Crystal Agronomy App as a tool for the management of SBRM along with a Pest Alert System for our growers that works in collaboration with North Dakota State University and the North Dakota Area Weather Network (NDAWN) for predicting and alerting peak SBRM fly emergence. This allows our growers to pinpoint the proper timing of insecticides, mainly Chlorpyrifos, as to reduce a less-targeted application of the insecticide and to maximize its effectiveness for control. Our Ag Staff are Certified Crop Advisors (CCA's) and through their affiliation are responsible and cognitive of IPM practices and the need to utilize a product, such as Chlorpyrifos, only when necessary and not as a blanket treatment control method. Stewardship of the land is paramount with our staff and growers alike. Chlorpyrifos is not used on every acre every year in our area, its use is focused and utilized only as-needed and directed at a relatively small amount of insect pests in sugarbeet production. Chlorpyrifos is a very effective tool once utilized for managing those pests. Chlorpyrifos in comparison to other chemistries has a shorter Pre Harvest Interval (PHI) that makes its use enticing for means of harvest timing.

SBRM can also cause root damages that lead to processing losses and increased respiration (lost sugar) in storage. Our sugarbeet processing campaigns, and therefore storage length at American Crystal Sugar Company, are up to 8.5 months in length storing a perishable product as an example, so these losses can mount. Root scarring from

SBRM also serves as entry points for some root diseases and therefore increased root disease. These infections further reduce profitability and increase beet storage losses.

The U.S. sugarbeet industry is small in terms of domestic production acreage with approximately 1,100,000 acres nationwide (2018 crop). As a specialty crop, the Crop Protection Product (CPP) options are currently quite limited in comparison to other commodities such as Corn and Soybeans, and Small grains and by removing Chlorpyrifos from this list would only leave us with a large void in the area of insect management.

Revocation of tolerances and cancellation of Chlorpyrifos registrations would have a significant negative impact on growers and users in the United States and globally through effects on trade that need to be properly assessed. By eliminating through judicial action the science-based analysis and other steps that EPA must take under the FFDCA and the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), the Court would undercut the future ability of growers and users to employ essential risk protection tools. Further, by ordering EPA to rush into registration cancellation, the court would force EPA to violate the longstanding procedural safeguards and other requirements provided by Congress under those statutes, robbing American growers, other users, and the registrant of their due process and other rights.

Based on the preceding, we respectfully urge EPA to petition for a rehearing of this decision with the Ninth Circuit Court.

Thank you for the opportunity to submit comments and I appreciate your consideration in allowing the continued use of this important chemistry for the Sugarbeet industry. We feel this is a vital product for the insect pests we face in sugarbeet production in the Red River Valley of the North.

If anything else is needed, please let me know.

Respectfully submitted for your consideration,

Tyler Grove

General Agronomist

American Crystal Sugar Company

101 North 3rd Street

Moorhead, MN 56560-1990

August 24, 2018

The Honorable Sonny Perdue
Secretary,
U.S. Department of Agriculture
Washington, DC

The Honorable Andrew Wheeler
Acting Administrator
U.S. Environmental Protection Agency
Washington, D.C.

Dear Secretary Perdue and Acting Administrator Wheeler:

As organizations representing tens of thousands of American farmers and others who depend upon chlorpyrifos for pest management, we are deeply concerned about the recent decision of the U.S. Court of Appeals for the Ninth Circuit ordering EPA to revoke tolerances and registrations for this critical pesticide. This decision is unprecedented; no court has previously ordered EPA both to cancel uses and revoke tolerances for a pesticide. Its significance goes beyond just chlorpyrifos and threatens the established regulatory process for all crop protection tools.

Chlorpyrifos is used on 50 crops in 45 states, and has played a key role in pest management efforts in the U.S. and worldwide for over 50 years. Pesticides such as chlorpyrifos provide critical risk management tools to farmers and others by helping improve food production, protect health and safety, and ensure a vital and productive supply of food and fiber to our nation and world markets. For many invasive pests, growers face limited or no viable alternatives, and when an outbreak of a new pest occurs, users look to chlorpyrifos as a proven first-line of defense.

Minnesota is the third largest soybean producing state in the US, producing, in 2015, approximately 380 million bushels on more than 7 million acres. Our major insect pests are soybean aphids and spider mites. Past research and extension publications indicate there is a potential yield loss of 40% possible for major aphid outbreaks

In Minnesota, We have a limited number of options for control of soybean aphids and spider mites. The chemical families labeled for soybean aphids in Minnesota are Organophosphates (Chlorpyrifos), Pyrethroids and Neonicotinoids. Removal of any of these options would result in a rapid buildup of insecticide resistance to the other two. Of the three chemical families effective for soybean aphids, soybean aphids resistance to Pyrethroids has been found. Specifically, soybean aphid resistance to bifenthrin and lambda-cyhalothrin has been documented in the past several years in areas of Minnesota. Neonicotinoids are under attack due to pollinator issues to the point Governor Dayton has essentially banned the use of these chemicals on state property. In fact, new chemistry, Sufloxaflor, was not allowed to be label for use on soybeans due to pollinator concerns.

Our biological defenses against these insects are also limited. Genetic resistance, the primary tool for biological defense is extremely limited. There are only limited number of varieties available for use in Minnesota. All but one variety is in the maturity group 1 or 2, thus limiting this option to the counties bordering Iowa. Currently the U of MN is developing a pyramid (multiple levels of genetic resistance) program, funded at least in part by Minnesota Soybean, to be used in all maturity groups grown in MN, but It will be several years before these will be available. Biological control using insect diseases and insect predators is inconsistent and unproven at this time. We, at Minnesota Soybean have funded multiple projects trying to establish parasitic wasps for this region, but have met with limited success.

While the Court stated that EPA has not made a finding that chlorpyrifos tolerances satisfy the safety standard under the Federal Food, Drug, and Cosmetic Act ("FFDCA"), and has made conclusive scientific findings that chlorpyrifos is unsafe

MINNESOTA SOYBEAN GROWERS ASSOCIATION

at the present regulatory standard, in fact the Agency has not changed its 2006 final determination done pursuant to statutorily-mandated reregistration that current chlorpyrifos uses meet the FFDCA's safety standard. The only EPA materials raising issues about that determination are preliminary, non-binding assessments made during the ongoing registration review of chlorpyrifos that are not final "findings." Moreover, these non-final assessments were based in large part on an epidemiology study that has been consistently criticized as unreliable for purposes of regulatory decision-making by EPA Scientific Advisory Panels, the U.S. Department of Agriculture, and many other interested stakeholders.

Further, the only legal avenue for EPA to "modify or revoke a tolerance" is to undertake the administrative process delegated to the Agency by Congress. That process has not been completed, and the Court cannot substitute its judgment for EPA and tell EPA the scientific conclusion it must reach. Finally, EPA's 2017 Order denying the administrative Petition to revoke tolerances, made after the Agency's consideration of relevant science-based comments from USDA and other interested stakeholders, expressed confidence that the current regulatory standard is protective of human health. Two intensive reviews of chlorpyrifos completed in 2017 by the European Food Safety Authority and the government of Australia reached a similar conclusion.

The current EPA safety standard for chlorpyrifos properly rests on five decades of experience in use, health surveillance of manufacturing workers and applicators, and over 4,000 studies and reports that have examined the product in terms of health, safety and the environment.

Revocation of tolerances and cancellation of chlorpyrifos registrations would have a significant negative impact on growers and users in the United States and globally through effects on trade that need to be properly assessed. By eliminating through judicial action the science-based analysis and other steps that EPA must take under the FFDCA and the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), the Court would undercut the future ability of growers and users to employ essential risk protection tools. Further, by ordering EPA to rush into registration cancellation, the court would force EPA to violate the longstanding procedural safeguards and other requirements provided by Congress under those statutes, robbing American growers, other users, and the registrant of their due process and other rights.

Based on the preceding, we respectfully urge EPA to petition for a rehearing of this decision with the Ninth Circuit Court.

Sincerely,

Jamie Beyer

Jamie Beyer,

Vice President, MSGA

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National Cotton Council OF AMERICA

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August 22, 2018

Nancy Beck
Deputy Assistant Administrator
Office of Chemical Safety and Pollution Prevention
U.S. Environmental Protection Agency
1201 Constitution Ave., NW
Washington, DC 20460

Dear Ms. Beck:

The National Cotton Council (NCC) is the central organization of the United States cotton industry, the majority of which is concentrated in 17 states. Its members include producers, ginners, cottonseed processors and merchandizers, merchants, cooperatives, warehousers and textile manufacturers. Farms and businesses directly involved in the production, distribution and processing of cotton employ more than 125,000 workers and produce direct business revenue of more than $21 billion. Annual cotton production is valued at more than $5.5 billion at the farm gate, the point at which the producer markets the crop. Accounting for the ripple effect of cotton through the broader economy, direct and indirect employment surpasses 280,000 workers with economic activity of almost $100 billion. The NCC is deeply concerned about the recent decision of the U.S. Court of Appeals for the Ninth Circuit ordering EPA to revoke tolerances and registrations for chlorpyrifos, a critical cotton pesticide. This decision is unprecedented and its significance goes beyond chlorpyrifos, threatening the established regulatory process for all crop protection tools and regulatory certainty that producers rely on when making critical, seasonal, farming decisions.

Chlorpyrifos is used on cotton to control aphids, lygus and whiteflies. It is one of the few remaining crop protection products that provides a broad spectrum of control for multiple insect pests. Without control of these pests, producers can sustain yield loss and quality loss. The quality loss results from the sugary excrement of honey dew by the insect pests followed by sooty mold, a black mold that infests the honey dew deposits. The contaminated cotton fiber has a black appearance with a sticky secretion that interferes with textile processing and is referred to as "sticky cotton." Sticky cotton is known to deposit the sticky residue in fiber processing equipment and clog equipment until the residue is removed. Sticky cotton is a major threat to potential sales of U. S. cotton fiber world-wide. Chlorpyrifos is an important component of Integrated Pest Management (IPM) systems that rotate chemistry modes of action as necessary for control of the cotton insect pests responsible for creating this contamination and to manage development of pest resistance.

The EPA is currently within its ongoing registration review period and was studying all of the pertinent science. Despite misstatements by the court that EPA had made findings that chlorpyrifos was unsafe at its current regulatory standard, the agency has not changed its 2006 final determination done pursuant to statutorily-mandated reregistration that current chlorpyrifos uses meet the Federal Food, Drug, and

Cosmetic Act's (FFDCA) safety standard. The only EPA materials raising issues about the 2006 determination are preliminary, non-binding assessments made during the ongoing registration review of chlorpyrifos that are not final "findings." Moreover, these non-final assessments were based in large part on an epidemiology study that has been consistently criticized as unreliable for purposes of regulatory decision-making by an EPA Scientific Advisory Panel, the U.S. Department of Agriculture, and many other interested stakeholders.

The goals envisioned by Congress of providing food security and public safety through the availability of pesticides can only be achieved if EPA's expertise in science and risk assessment is validated by Congress and the courts. This decision on chlorpyrifos not only threatens that product and the cotton users that rely on it, but it threatens all future pesticide registration decisions.

The NCC supports the protection of human health and the environment but is deeply concerned over this decision. The NCC urges EPA to continue the historic path of reliance on credible scientific data and require all studies submitted to meet the same requirements as those required of registrants. We urge the agency to petition the Ninth Circuit Court for a rehearing.

Respectfully submitted,

Reece Langley

Reece Langley
VP – Washington Operations
National Cotton Council

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August 23, 2018

Elizabeth Bennett
Associate Administrator
Office of Public Engagement and Environmental Education
U.S. Environmental Protection Agency
1200 Pennsylvania Ave., NW
Washington, DC 20460

Dear Ms. Bennett:

The National Cotton Council (NCC) is the central organization of the United States cotton industry, the majority of which is concentrated in 17 states. Its members include producers, ginners, cottonseed processors and merchandizers, merchants, cooperatives, warehousers and textile manufacturers. Farms and businesses directly involved in the production, distribution and processing of cotton employ more than 125,000 workers and produce direct business revenue of more than $21 billion. Annual cotton production is valued at more than $5.5 billion at the farm gate, the point at which the producer markets the crop. Accounting for the ripple effect of cotton through the broader economy, direct and indirect employment surpasses 280,000 workers with economic activity of almost $100 billion. The NCC is deeply concerned about the recent decision of the U.S. Court of Appeals for the Ninth Circuit ordering EPA to revoke tolerances and registrations for chlorpyrifos, a critical cotton pesticide. This decision is unprecedented and its significance goes beyond chlorpyrifos, threatening the established regulatory process for all crop protection tools and regulatory certainty that producers rely on when making critical, seasonal, farming decisions.

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The goals envisioned by Congress of providing food security and public safety through the availability of pesticides can only be achieved if EPA's expertise in science and risk assessment is validated by Congress and the courts. This decision on chlorpyrifos not only threatens that product and the cotton users that rely on it, but it threatens all future pesticide registration decisions.

The NCC supports the protection of human health and the environment but is deeply concerned over this decision. The NCC urges EPA to continue the historic path of reliance on credible scientific data and require all studies submitted to meet the same requirements as those required of registrants. We urge the agency to petition the Ninth Circuit Court for a rehearing.

Respectfully submitted,

Reece Langley

Reece Langley
VP – Washington Operations
National Cotton Council

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January 5, 2016

U.S. Environmental Protection Agency
1200 Pennsylvania Ave., NW
Washington, DC 20460-0001

RE: Docket ID No. EPA-HQ-OPP-2015-0653
RIN: Not Assigned

Dear Sir or Madam:

American Farm Bureau Federation (AFBF), the nation's largest general farm organization, represents farmers and ranchers in all fifty states and Puerto Rico. They are engaged in the production of literally hundreds of commodities and specialty crops. On their behalf, we are submitting these comments to the above-referenced docket, in which EPA proposes to revoke all tolerances for chlorpyrifos. AFBF strongly opposes the agency's proposed action and requests that these comments be considered by EPA as it considers a final decision on this matter.

As a prefatory matter, AFBF wishes to state that it has previously submitted comments to the agency when it issued its preliminary human health risk assessment on chlorpyrifos; those comments were dated October 6, 2011 and December 31, 2013. We incorporate those comments by reference herein and ask that they be included for consideration in the docket.

We also wish to express our concern and disappointment that EPA's proposal appears to be a retreat from its statutory obligation that, when evaluating pesticides for registration, it balances the risk of those active ingredients against their benefits to farmers specifically, and to the public generally, when they do not pose an unreasonable risk to health or the environment. In the case of chlorpyrifos, a compound that has been widely used for decades, we believe its efficacy and safety when used as directed are amply demonstrated not just in the literature but in the experience of the agricultural sector. To underscore this fact, it may be helpful to emphasize the widespread use of the product. As we pointed out to EPA previously, there are more than 50 different crops in more than 98 countries that rely on chlorpyrifos products to help defend against crop failure from a wide array of insect pests. In the United States alone, there are a number of widely-grown crops that depend extensively on chlorpyrifos and growers need the current list of tolerances to be maintained for these crops and for any processed fraction or food tolerance, animal feed tolerance and animal commodity tolerance (such as, but not limited to milk, meat, eggs) that would be associated with the use on these crop(s). Specifically, we note these particular uses:

Alfalfa
Chlropyrifos is widely used and highly effective against the most important insect pests of alfalfa. These pests include alfalfa weevil, leafhoppers, aphids and Lepidoptera pests. Use rates in the Midwest and Plains, which represent 60 percent of the total alfalfa area, are 0.75 pounds of active ingredient per acre (lb a.i./A) for alfalfa weevil and 0.50 lb a.i./A for leafhoppers. Rates in

the West and Southern U.S. (nearly 35 percent of the total alfalfa area) range from 0.5 to 1.0 lb a.i./A.

Citrus
Products containing chlorpyrifos are widely used in citrus for control of scale, mealybug, citrus rust mite, various Lepidoptera larvae and ants. Since the introduction of the Asian citrus psylla to the continental U.S. in 1998, chlorpyrifos has become one of the most widely used insecticides to control this pest. The Asian citrus psylla is present in Florida and Texas and recently has also been found in San Diego and Imperial Counties in California, according to the California Department of Food and Agriculture. The typical use rate in Florida is 2.5 lb a.i./A. In California, use rates vary by pest: 3 to 6 lb a.i./A for California red scale and citricola scale, and 2 to 4 lb a.i./A for ants.

Soybeans
Chlorpyrifos is effective in treating a number of Arthropod pests in soybeans, including soybean aphid, bean leaf beetle, caterpillars, grasshoppers, leafhopper, two-spotted mites and others. Use of chlorpyrifos has grown significantly in the last few years in soybeans as a result of the increased presence of the soybean aphid in the Midwest and the Great and North Plains areas that represent the largest soybean producing area in the U.S. (80 percent of the total soybean producing area). Use rates in the Midwest and the Great and North Plains are 0.25 to 0.5 lb a.i./A and 0.5 to 1.0 lb a.i. in the Southeast.

Tree Nuts – Almonds, Hazelnuts, Pecans and Walnuts
Chlorpyrifos is used as a foliar treatment and as a dormant or delayed dormant spray on almonds to control peach twig borer, navel orangeworm and San Jose scale. Walnut scale, codling moth and walnut husk fly are effectively controlled with foliar applications of a liquid chlorpyrifos formulation. Dormant or delayed dormant applications in combination with dormant oil are effective against walnut scale. The use rate of chlorpyrifos for almonds and walnuts is 2.0 lb a.i./A. Pecan insect pests controlled with chlorpyrifos include black pecan aphid, hickory shuckworm, Phylloxera, pecan nut casebearer, spittlebugs and yellow aphid complex. Rates to control these insect pests in pecans vary from 0.5 to 1.0 lb a.i./A.

These are not the only sectors where a loss of chlorpyrifos would have a large impact. Other examples include:

- Hundreds of thousands of acres of grass seed production depend on chlorpyrifos to control a wide variety of pests (e.g., aphids, crane fly, cutworms and others). According to the Oregon Seed Council, in Oregon alone grass seed contributes approximately $1 billion of economic activity to the state and the loss of chlorpyrifos would have a significant impact on that agricultural activity.

- For vegetable crops, chlorpyrifos represents a critical tool in farmers' efforts to control insect damage,[1]

[1] Please see comments submitted to the docket by the Pacific Northwest Vegetable Growers Association, as well as the Michigan Farm Bureau, the latter of which is a member of AFBF

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August 28, 2018

Nancy Beck
Deputy Assistant Administrator
Offices of Chemical Safety and Pollution Prevention
Office of the Administrator
U.S. Environmental Protection Agency
1201 Constitution Avenue, NW
Washington DC 20460

via email: beck.nancy@epa.gov

Dear Ms. Beck,

The Western Agricultural Processors Association represents 150 huller/shellers and processors of almonds, walnuts, pistachios and pecans in the state of California on regulatory and legislative issues that affect the tree industry such as, but not limited to, pesticides, safety, water, labor and air quality issues.

Our Association is requesting that the Environmental Protection Agency (EPA) request a rehearing of the recent decision of the U.S. Court of Appeals for the Ninth Circuit ordering EPA to revoke tolerances and registrations for this product. The revocation of tolerances and cancellations of registrations would be devastating to not only the California tree nut industry, but to the agricultural industry as a whole. Chlorpyrifos has proven to be a critical pest management tool to more than 50 crops grown in the United States. In particular, this product is often used to suppress or eliminated invasive pests that will not respond to other chemistries.

Almond growers rely on chlorpyrifos as a necessary tool to control pests including twig borer, navel orangeworm, mites as well as ants. In California the leaffooted bug can only be managed with chlorpyrifos because it is the most effective and economical tool for growers. The product is ideal for use in Integrated Pest Management systems as it provides effective control over pests without damaging beneficials or causing flare up of mites.

Chlorpyrifos offers walnut growers defense against insects including the codling moth and walnut husk fly. The codling moth is perhaps the most serious pest for California walnuts. The moth's larvae cause "nutlets" to drop from the tree and following generations of the moth cause such extensive damage to the nuts that they are unmarketable. Damaged kernels lead to a greater issues as they subsequently become breeding sites for other crop-damaging pests such as the navel orangeworm.

The use of chlorpyrifos in pecans help manage several pests including the pecan weevil, hickory schuckworm, mites but perhaps most importantly the pecan nut casebearer and black pecan aphid. The pecan nut casebearer and black pecan aphid cause damage to not only the nuts or nut cluster but can

cause premature leaf shed, reduced quality and valuable yield loss. Chlorpyrifos is the leading insecticide for pecan growers due to its broad spectrum nature, economic efficiency and resistance management.

Our Association respectfully asks that EPA take action to help protect the livelihood of the California tree nut industry by petitioning for a rehearing in light of the decision with the Ninth Circuit Court. The actions as a result of this decision will create a precedent for all other crop protection tools, an action that the agricultural industry simply cannot afford. The goal to protect human health and insure safe use and practice with registered chemistries is not only held by EPA, but is a shared goal with the farmers within our industry. Having utilized this product for over 50 years, our agricultural producers trust in the years of research, studies and scientifically-based regulations that this product has a place and a critical purpose in producing a safe and healthy food and fiber supply. The revocation of tolerances and cancellation of all registrations would have a severely negative impact on California tree nuts, we ask that you take this, as well as our previous statements, into consideration as you are making your decision. If you have any questions, please contact us.

Sincerely,

Jodi Raley
Director of Regulatory Affairs

- For mint oil production, the Mint Industry Research Council estimates that inability to utilize chlorpyrifos could present growers with an economic loss of over $5 million.[2]

We have attached a more extensive list as Table 1, which is appended to these remarks.

The U.S. Department of Agriculture, in response to an inquiry by AFBF, noted that chlorpyrifos has been a part of growers' integrated pest management (IPM) programs for approximately 50 years and is used to control a wide array of primary and secondary pests in over 75 cropping systems. Were chlorpyrifos to be eliminated or severely restricted, the impact to farmers would be significant in terms of reduced efficacy of pest management programs, increased costs to growers switching to more expensive, more frequently applied and less effective alternatives, disruption to current and historical IPM programs across these cropping systems and potentially substantial losses due to reduced crop yield. According to USDA, in some systems lack of effective alternatives targeting control of primary pests, such as root maggot in sugar beets, presents serious concern of economic damage if the pest is left uncontrolled.

It is quite clear that the agency's proposal, should it be made effective, would represent a crippling loss to American agriculture, reaching likely into tens of millions of dollars and affecting the livelihood of farmers across the country. We do not believe a reasonable assessment of the evidence can lead to any other conclusion.

At the same time, AFBF is greatly disturbed that the agency appears to be proceeding in this manner based on modeling assessments that are highly questionable and linking its reasoning to epidemiological studies that are not transparent and do not accurately represent the risk of chlorpyrifos. In doing so, AFBF believes EPA has stepped well beyond its statutory authority and is reaching conclusions not justified either by the science or the law.

We also disagree with the agency's conclusion that a revocation of tolerances will not have an impact on a significant number of small farms. The agency conducted only a national screen and although citing the potential for a higher level of impact in some regions, dismissed any regional effect as not significant. The screen also focused only on primary pests and whether an alternative product might be available. As discussed in these comments, there are multiple reasons a farmer may rely on chlorpyrifos.

We strongly counsel the agency not to pursue this proposal.

Sincerely,

Dale W. Moore

Dale Moore
Executive Director, Public Policy
American Farm Bureau Federation

---

[2] See comments previously submitted to the docket by the Mint Industry Research Council.

Table 1

Master Label	**On Master label as DAS use**
Alfalfa	YES
Asparagus	YES
Beets (table, sugar)	YES - Sugarbeets
Cole crops	YES
Carrots	YES
Citrus, Nectarine	YES
Clover	
Corn (all)	YES
Cotton	YES
Cranberry	YES
Cucumber	NO
Fig	YES
Fruit and Nut trees	YES
Ginseng	
Grapes	YES
Legume vegetables (beans, peas)	YES
Mint – Peppermint, Spearmint	YES
Onions	YES
Peanut	YES
Peppers	YES
Pineapple	YES
Apple, Cherries, Peach, Pear, Plum, Prune	YES
Pumpkin	YES
Radish	YEs
Rutabaga	YES
Sorghum (grain)	YES
Soybeans	YES
Strawberries	YES
Sunflower	YES
Corn (all)	YES
Sweet potatoes	YES
Tobacco	YES
Turnip	YES
Tree Nuts – Almonds, Hazelnuts, Pecans, Walnuts	YES
Wheat, Triticale	YES

Michigan Farm Bureau submitted comments into EPA last year regarding the proper use of Chlorpyrifos, trade name Lorsban, as a preventative measure to protect fruit trees from borers," said Kevin Robson, horticulture specialist with Michigan Farm Bureau. The application is primarily a trunk spray at the onset of the growing season. Former EPA Administrator Pruitt kept this crucial crop protection material in the farmer's toolbox for this growing season, and Acting Administrator Andrew Wheeler has continued that," he said. "Like anything with federal agencies, this decision marks the start of a long process, where MFB will have additional opportunity to weigh in from a technical standpoint, and do the best we can to keep this safe product in the hands of growers," Robson said. "While this decision was made in the 9th circuit, we still remain optimistic that EPA will do its due diligence, cling tightly to science, and realize the importance of this material for the production of fruit in Michigan."

Jay Vroom, CropLife America president and CEO, said in a statement to DTN he hopes the EPA will take action in response.

"We are disappointed by today's decision by the Ninth Circuit Court, ordering EPA to 'cancel all registrations for chlorpyrifos within 60 days,'" he said. "We hope that after review of the decision EPA will consider all avenues of appeal. We continue to support growers and to work with them to ensure they have the tools needed to continue lproducing safe and affordable food."

"National Sorghum Producers is disappointed by the Ninth Circuit Court's decision, ordering the EPA to cancel all registrations of Chlorpyrifos by 60 days. Chlorpyrifos, in its various formulations, is a vital tool used in rotation to control damaging pests such as sorghum midge, various aphid species, and sorghum webworm and headworm. Additionally, its short residual activity makes it among the more environmentally safe products, especially in the semi-arid conditions in which sorghum is often grown."Sorghum farmers understand the need to balance risk and benefits. The benefits of Chlorpyrifos are clear, as it has been evaluated and approved in 79 countries around the world and the extensive studies strongly point to a reduced risk product that should remain in the toolbox of American farmers. NSP hopes to see the EPA explore all avenues of an appeal after review of the order, and we will continue to advocate for this vital tool for our growers."

Gregg Schmidt with Corteva Agriscience provided this statement:

"Chlorpyrifos is a critical pest management tool used by growers around the world to manage a large number of pests, and regulatory bodies in 79 countries have looked at the science, carefully evaluated the product and its significant benefits and continued to approve its use. We note that this was a split decision of the panel and we agree with the dissenting judge's opinion. We expect that all appellate options to challenge the majority's decision will be considered. We will continue to support the growers who need this important product."

Bennette Misalucha, executive director, Hawaii Crop Improvement Association, said HCIA will wait to see how the EPA responds to the ruling, "which is likely to have a significant negative impact on agriculture."
She said in the U.S., the EPA requires all pesticides to undergo more than 100 safety studies before they are approved for commercial use, and every crop protection product sold in the U.S. must have an EPA-approved label with specific directions on application use.

"While Hawaii's tropical climate is ideal for growing crops, we also face tremendous challenges with pests, diseases, and invasive species, which calls for the need for effective solutions," she said in a prepared statement.

Georgia Farm Bureau Federation

Chlorpyrifos is a widely used insecticide in Georgia. It is cheap, effective, and its use is standard recommendation from UGA Extension specialists. Current commodities and productions utilizing chlorpyrifos applications are as follows: alfalfa, apples, corn, cotton, grain sorghum, grapes, greenhouse production, golf courses and commercial turf, peaches, peanuts, pecan and other tree production, soybeans, strawberries, sunflowers, tobacco, and vegetables.

Many of the above-mentioned crops utilize chlorpyrifos for pests that no other insecticides can control. Many pests, such as wire worms and burrower bugs in peanuts, can have devastating effects on yield. Chlorpyrifos is one of the few insecticides that have been shown to reduce burrower bug damage. While research is ongoing to understand these pests and find other means of control, chlorpyrifos is still a much-needed tool in a very small toolbox.

Georgia producers take great pride in sustainability and use chlorpyrifos in rotations with insecticides of other modes of action when available. Loss of chlorpyrifos would be detrimental to producers across the state. In a time when affordable options are limited, effective low-cost options such as chlorpyrifos should be protected.

The American Soybean Association believes in a science and evidence-based regulatory system for crop protection tools. Decisions regarding the safety of available products in the marketplace are best made by the EPA and our federal regulators using best available data and sound science.

Renee Munasifi
American Soybean Association