UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON D.C., 20460

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OFFICE OF CHEMICAL SAFETY
AND POLLUTION PREVENTION

MEMORANDUM

SUBJECT: Minor Use Crop Status for Legume Crop Group 6C and Bush Berry Crop Group 13-07B Being Considered in the Request for a New Exclusive Use Period for Protection of Data for Difenoconazole (DP 421037)

FROM: Leonard Yourman, Plant Pathologist
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THRU: Arnet Jones, Chief
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TO: Rosemary Kearns, Chemical Review Manager
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Product Review Panel: December 10, 2014

SUMMARY

Syngenta has requested a new exclusive use period for protection of data for the fungicide difenoconazole in support of registrations of several new minor uses as described in FIFRA § 3(c)(1)(F)(vi). As part of the process, BEAD has evaluated data of the acres of production of the crops listed by the registrant and assessed whether they meet the standard of minor use (limited acreage) as defined by FIFRA § 2(ll)(1) (FIFRA, 2008). By that definition, BEAD concludes that dry legume crops listed by the registrant (lima bean, cowpea/southern pea, kidney bean, blackeyed pea, navy bean, adzuki bean, crowder pea, mung bean, broad bean, guar bean, pigeon pea, tepary bean, catjang, moth bean, rice bean, urd bean, lablab bean) are grown in the U.S. on fewer than 300,000 acres and are minor uses.

BEAD cannot make a finding for minor use status of "field pea" cited by the registrant as a minor use. Field pea is a common generic term for dry *Pisum sativum* subgroups. The USDA Census of Agriculture (USDA, 2014a) does not identify "field pea", but rather, "dry peas" and "Austrian winter peas" (sometimes called field peas). Austrian winter pea was harvested from

12,952 acres in 2012 (USDA, 2014a). Dry edible pea was harvested from 664,557 acres in 2012 (USDA, 2014a). The Agency should seek a clarification from the registrant.

BEAD concludes that the berries of the bushberry subgroup 13-07B listed by the registrant (Aronia berry, highbush blueberry, lowbush blueberry, buffalo currant, Chilean guava, highbush cranberry, black currant, red currant, elderberry, European barberry, gooseberry, edible honeysuckle, huckleberry, jostaberry, Juneberry/Saskatoon berry, lingonberry, native currant, salal, sea buckthorn) are grown on fewer than 300,000 acres. Land in production for all berries total was 289,913 acres in 2012 (USDA, 2014a).

BACKGROUND

Syngenta requested that EPA grant a new exclusive use period for protection of data for the fungicide difenoconazole in support of registrations of new minor uses for the period of 10 years from the date of submission as described in FIFRA § 3(c)(1)(F)(vi) [FIFRA, 2008]. Once an exclusive use period has expired, a registrant may request a new exclusive use period for the data developed to add a minor use to an existing registration that does not have exclusive use protected data.

To establish a new exclusive use period according to FIFRA § 3(c)(1)(F)(vi), the applicant must show that the requested use(s) is a minor use as defined by FIFRA § 2(ll) (FIFRA, 2008). Minor use for this purpose is accepted when the crop is grown in the U.S. on fewer than 300,000 acres. Generally, BEAD consults the most recent USDA Census of Agriculture (USDA, 2014a) to determine the crop acreage. For some purposes other sources of production data may be consulted including USDA Crop Production Summary reports (e.g., USDA, 2014b).

MINOR USES

BEAD concludes that, with one possible exception, the dry legume crops from legume crop subgroup 6C identified by the registrant (lima bean, cowpea/southern pea, kidney bean, blackeyed pea, navy bean, adzuki bean, crowder pea, mung bean, broad bean, guar bean, pigeon pea, tepary bean, catjang, moth bean, rice bean, urd bean, lablab bean) are minor uses and are grown in the U.S. on fewer than 300,000 acres [as defined by FIFRA § 2(ll)] (FIFRA, 2008). Of the listed crops the current Census of Agriculture (USDA, 2014a) reported acreage for only dry lima bean (21,432 acres) and cowpea (southern) pea (19,289 acres). The USDA Crop Production Summary (USDA, 2014b) reported total kidney bean (light red and dark red) plantings in 2013 on 89,900 acres and blackeyed pea planting on 42,100 acres. The same survey reported navy bean planting in 2013 on 174,200 acres. Most of the other crops listed by the registrant did not appear in the USDA census or crop production summary for legumes and BEAD, after consulting with USDA data sources (e.g., USDA, 2014a; USDA, 2014b), concludes that these crops are grown on fewer than 300,000 acres.

The possible exception is "field pea" cited by the registrant as eligible as a minor use. However, due to a confusing nomenclature for "field peas" it may or may not be grown on fewer than

300,000 acres depending on one's definition. Field pea may also be known as Austrian winter pea or a more generic "field pea". The USDA census does not identify "field pea", but rather differentiates "dry peas" and "Austrian winter peas". The Census distinguishes two *Pisum sativum* sub-types—dry edible peas and Austrian winter pea (e.g., USDA, 2012). *P. sativum* spp. *hortense* includes the most common dry green and yellow peas, while Austrian winter pea (*P. sativum* spp. *arvense*) is a specialty field pea (e.g., SDSU, 2013; NDSU, 2009). Austrian winter pea was harvested from 12,952 acres in 2012 (USDA, 2014a). Dry edible pea was harvested from 664,557 acres in 2012 (USDA, 2014a). Therefore, without further clarification BEAD concludes that "field pea" does not meet the definition of a minor use. The Agency should seek a response from the registrant.

BEAD concludes that the berries of the bushberry subgroup 13-07B listed by the registrant (Aronia berry, highbush blueberry, lowbush blueberry, buffalo currant, Chilean guava, highbush cranberry, black currant, red currant, elderberry, European barberry, gooseberry, edible honeysuckle, huckleberry, jostaberry, Juneberry/Saskatoon berry, lingonberry, native currant, salal, sea buckthorn) are grown on fewer than 300,000 acres. Land in production for all berries total was 289,913 acres in 2012 (USDA, 2014a).

REFERENCES

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