**Decree of 20 November 2021 on the protection of bees and other pollinating insects and on the preservation of pollination services when using plant protection products**

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* Title I: FRAMEWORK FOR THE AUTHORISATION OF PLANT PROTECTION PRODUCTS DURING FLOWERING PERIODS (Article 2)
* Title II: SUPERVISION OF THE USE OF PLANT PROTECTION PRODUCTS DURING FLOWERING PERIODS (Articles 3 to 7)
* Title III: TRANSITIONAL PROVISIONS (Articles 8 to 11)
* Annex

Target audiences: Market authorisation applicants and holders, users of plant protection products, beneficiaries of pollination services.
Subject: This Decree sets out measures to protect pollinating insects and agricultural and ecosystem services rendered from the risks associated with the use of plant protection products.
Entry into force: This decree enters into force on 1 January 2022.
Notice: The decree extends to all plant protection products the principle of evaluating the possibility of using a plant protection product during the flowering period on crops attractive to pollinators and on foraging areas with regard to the risk for pollinators. If the product is authorised by the Anses for flowering use the treatment should, except in special cases, be carried out within 2 hours before sunset and within 3 hours after sunset. The decree provides for transitional measures and a timetable for the implementation of these new provisions.
References: this Decree is issued pursuant to Article L. 253-7 of the Rural and Maritime Fisheries Code. It is available on the Légifrance website at: https://www.legifrance.gouv.fr/.

The Minister for Ecological Transition, the Minister of Economy, Finance and Recovery, the Minister of Solidarity and Health and the Minister of Agriculture and Food,
Having regard to Regulation (EC) No 1107/2009 of the European Parliament and of the Council of 21 October 2009, as amended, concerning the placing of plant protection products on the market and repealing Council Directives 79/117/EEC and 91/414/EEC;
Having regard to Commission Regulation (EU) No 547/2011 of 8 June 2011 implementing Regulation (EC) No 1107/2009 of the European Parliament and of the Council as regards labelling requirements for plant protection products;
Having regard to Directive (EU) 2015/1535 of the European Parliament and of the Council of 9 September 2015 laying down a procedure for the provision of information in the field of technical regulations and of rules on Information Society services;
Having regard to the Rural and Maritime Fisheries Code, in particular Articles L. 201-4, L. 251-3, L. 253-1, L. 253-7, D. 253-8, R. 253-43 and R. 253-45;
Having regard to the decree of 16 June 2009 on the conditions under which the operators referred to in Article L. 257-1 keep the register referred to in Article L. 257-3 of the Rural Code;
Having regard to notification No 2021/448/F;
Having regard to the observations made during the public consultation carried out between 28 June 2021 and 20 July 2021, pursuant to Article L. 123-19-1 of the Environmental Code,
Hereby decree:

**Article 1**

For the purposes of this Decree, the following definitions shall apply:
“Bees”: Domestic bees, wild bees and bumblebees;
“Sunset”: Time defined by the ephemeris of the place closest to the implantation of the treatment site;
“Attractive culture”: An attractive crop is a crop that, by its very nature, is attractive to bees or other pollinating insects. Crops listed in the Official Bulletin of the Ministry of Agriculture shall not be considered attractive within the meaning of this Decree;
“Exudate”: Honeydew, sweet secretions produced by plants and extra-floral nectar of plants, which are harvested by bees or other pollinating insects;
“Flowering”: Vegetative period extending from the opening of the first flowers to the fall of the petals of the last flowers;
“Products”: Plant protection products, with the exception of thinning products, and their adjuvants referred to in Article L.253-1 of the Rural Code and Maritime Fisheries;
“Register”: Register on the use of plant protection products as provided for in the Decree of 16 June 2009 on the conditions under which the operators referred to in Article L. 257-1 of Rural and Maritime Fisheries Code keep the register referred to in Article 67 of Regulation (EC) No 1107/2009 of 21 October 2009 concerning the placing of plant protection products on the market;
“Use” means: Use of a plant protection product or an adjuvant on a plant, plant product or family of plants, in order to control a pest, a group of pests, a disease or a group of diseases, in accordance with a well-defined function and detailed rules of application, as listed in the catalogue referred to in Article D.253-8 of Article D.253-8 of the Rural and Maritime Fisheries Code;
“Product Use”: Any application of a plant protection product or an adjuvant to a vegetative cycle in accordance with an authorised use, regardless of the method of application and the part of the plant being treated, with the exception of applications as defined in Annex 1 which exclude exposure of pollinators during flowering;
“Foraging area”: Excluding crops in production, a foraging area is an agricultural or non-agricultural area occupied by a cultivated or spontaneous plant group, which is of obvious interest to bees or other pollinating insects due to the presence of flowers or exudates. For the purposes of this Decree, the uses of products in foraging areas are those intended to specifically treat those areas, regardless of the use on crops in production.

**Title I: FRAMEWORK FOR THE AUTHORISATION OF PLANT PROTECTION PRODUCTS DURING FLOWERING PERIODS (Article 2)**

**Article 2**

When issuing or renewing the authorisation referred to in Article L. 253-1 of the Rural and Maritime Fisheries Code, the Anses shall assess the risks associated with the use of the product on attractive crops during flowering.
To this end, the applicant shall attach to their file the tests and risk assessments required by the regulations in force and the information necessary for the Anses to decide on the assessment referred to in the first sub-paragraph.
If the risk assessment carried out by the Anses concludes that the use results in negligible exposure of bees or does not cause an unacceptable, acute or chronic effect on bees or effects on colony survival and development, the use of the product may be permitted on the corresponding attractive crop when it is blooming and on foraging areas. Such use shall be subject to compliance with the measures laid down in Article 3.
Otherwise, the use of the product is prohibited on the corresponding attractive crop when it is blooming and on the foraging areas.

**Title II: SUPERVISION OF THE USE OF PLANT PROTECTION PRODUCTS DURING FLOWERING PERIODS (Articles 3 to 7)**

**Article 3**

A product authorised under Article 2 shall be used on an attractive crop during flowering or on a foraging area within 2 hours before sunset and within 3 hours after sunset.
This period may be adjusted or abolished in accordance with the procedures providing equivalent guarantees for exposure of bees and other pollinators. These procedures will be set out in Annex after the Anses’ opinion, in particular with a view to allowing treatments in the morning or under a temperature threshold.
By way of derogation from the first paragraph, experimentation with the use of plant protection products beyond the mentioned time slot is carried out in order to identify the decision-support tools or other technologies the use of which would provide equivalent guarantees in terms of exposure of bees and other pollinators . This experiment with a maximum duration of three years, which is the subject of an evaluation by the Anses, is carried out under the conditions and modalities defined by joint decree of the Ministers responsible for Environment and Agriculture.

**Article 4**

When a plant cover present under a perennial crop constitutes a foraging area, it must be made unattractive for pollinators prior to any insecticide or acaricide treatment.

**Article 5**

The period of application provided for in Article 3 may be amended in the following cases:

- if, by reason of the exclusively diurnal activity of bio-aggressors, the treatment carried out during the period defined in Article 3 does not ensure effective protection of the culture treated;
- if, in view of the development of a disease, the effectiveness of a fungicidal treatment is conditioned by its completion within a constrained period incompatible with the period laid down in Article 3.

In both cases, the application can be performed without time constraints.
On a temporary basis, for a period of eight months from the date of publication of this Decree, the application may also be carried out without an hourly constraint provided that the temperature is sufficiently low to avoid the presence of bees.
The start time and end time of processing and the reason for the change in the period provided for in Article 3 shall be recorded in the register.

**Article 6**

Derogations may be made from the prohibition provided for in the fourth paragraph of Article 2 and to the management measures provided for in Article 3 by decree issued pursuant to the II of Article L. 201-4 of the Rural and Maritime Fisheries Code for bodies regulated under Article L. 251-3 of the same Code.

**Article 7**

I. - The labelling of products for which no use is authorised on a flowering crop in accordance with Article 2 shall include the phrase “Hazardous to bees. To protect bees and other pollinating insects, do not apply during flowering and do not use on foraging areas.
II. - The labelling of products for which at least one use is authorised on a flowering crop in accordance with Article 2 shall include the phrase “May be hazardous to bees. Possible application during flowering and on foraging areas within 2 hours prior to sunset or 3 hours after sunset, only for the following use(s): [...] The hourly arrangements may be adjusted in accordance with the Decree of 20 November 2021 on the protection of bees and other pollinating insects and the preservation of pollination services when using plant protection products.”

**Title III: TRANSITIONAL PROVISIONS (Articles 8 to 11)**

**Article 8**

I. - As a transitional measure, insecticides and acaricide products whose marketing authorisation includes, on the date of entry into force of this Decree, one of the following particulars:

“- authorised use during flowering, other than in the presence of bees”;
“- authorised use during periods of exudate production, other than in the presence of bees”;
“- authorised use during flowering, and during periods of exudate production other than in the presence of bees”;

may be used for the uses concerned on attractive crops during flowering or on foraging areas, under the conditions laid down in Articles 3 to 5, until the marketing authorisation has been renewed.
II. - As a transitional measure, if the filling of the renewal of the marketing authorisation for a product other than insecticides and acaricides occurs within a period of less than 30 months after the entry into force of this Decree, that product may be used on attractive crops during flowering and on foraging areas under the conditions laid down in Articles 3 to 5 until the Anses has ruled on the risk assessment provided for in Article 2, subject to the additional elements have been filed within 30 months of the entry into force of this Decree.
III. - As a transitional measure, if the filling of the renewal of the marketing authorisation for a product other than insecticides and acaricides occurs within a period of more than 30 months after the entry into force of this Decree, that product may be used on attractive crops during flowering and on foraging areas under the conditions laid down in Articles 3 to 5 until the Anses has ruled on the risk assessment provided for in Article 2, subject to the additional elements have been filed within 48 months of the entry into force of this Decree.
IV. - In the absence of submission of additional information within the time limits laid down in II and III of this Article, use on attractive crops during flowering and foraging areas shall be prohibited and the labels of the products concerned shall be updated in accordance with paragraph I of Article 7.
V. - Applicants shall notify Anses, 18 months before the filings of the additional elements provided for in II and III of this Article, of their intention to submit these additional elements, specifying the uses concerned.
VI. - The provisions laid down in paragraphs III to V shall not apply to crops which are not considered to be of major importance in one of the northern or southern zones of France by the catalogue of uses provided for in Article D. 253-8 of the Rural Code and Maritime Fisheries. For these crops, the tests and risk assessments for pollinators required by the regulations in force are requested at the time of renewal of the marketing authorisation and the products concerned may be used on attractive crops during flowering or on foraging areas under the conditions provided for in Articles 3 to 5 until Anses has ruled on the risk assessment provided for in Article 2.
VII. - Anses regularly publishes and updates the list of uses of authorised products under the conditions laid down in Article 2.

**Article 9**

The Decree of 28 November 2003 on the conditions of use of agricultural insecticides and acaricides for the protection of bees and other pollinating insects is repealed.

**Article 10**

This Order shall enter into force on 1 January 2022.

**Article 11**

The Director-General for Food, the Director-General for Risk Prevention, the Director-General for Competition, Consumer Affairs and Fraud Control and the Director-General for Health shall, as far as he is concerned, be responsible for the implementation of this Decree, which will be published in the Official Journal of the French Republic.

**Annex**

**Article**

Annex 1
List of applications that exclude exposure of pollinators during flowering season

Applications carried out on greenhouse and sheltered crops, since they are made inaccessible to pollinators during flowering.

Done on 20 November 2021.

The Minister for Agriculture and Food,
For the Minister and by delegation:
The Director General for Food,
B. Ferreira

The Minister for the Ecological Transition,
For the Minister and by delegation:
The Director-General for Risk Prevention,
C. Bourillet

The Minister for the Economy, Finance and Recovery,
For and on behalf of the Minister:
The Director General for Competition, Consumer Affairs and Fraud Control,
V. Beaumeunier

The Minister for Solidarity and Health,
For and on behalf of the Minister:
The Director-General for Health,
J. Salomon