



## *Arizona Farm Bureau Federation*

325 S. Higley Rd, Suite 210  
Gilbert, AZ 85296

October 21, 2023

Submitted via Federal eRulemaking Portal: [www.regulations.gov](http://www.regulations.gov)

RE: EPA-HQ-OPP-2023-0365; Draft Herbicide Strategy Framework to Reduce Exposure of Federally Listed Endangered and Threatened Species and Designated Critical Habitats from the Use of Conventional Agricultural Herbicides

To Whom It May Concern:

The Arizona Farm Bureau Federation represents farmers and ranchers from across Arizona. Our members produce an array of crops and livestock that contribute over \$23.3 billion of economic impact to the state. Many of our members rely on pesticides to protect their crops, land, equipment, and infrastructure. Our comments are in response to the Environmental Protection Agency's (EPA) Draft Herbicide Strategy Framework to reduce exposure of federally listed endangered and threatened species and designated critical habitats from the use of conventional agricultural herbicides (Herbicide Strategy).

Herbicides are a critical tool for managing weeds in crop production. If weeds are not controlled quickly and effectively, they can choke out a crop by competing for light, nutrients, and moisture and serve as a refuge for insects and diseases. It is also a valuable tool in fallow fields to reduce weed seed banks, which impact the success of a future crop. Furthermore, our organization has submitted comments to EPA in response to several draft human health and environmental risk assessments and proposed interim decisions for several herbicides on which EPA conducted case studies for the Herbicide Strategy.<sup>1</sup> Our comments highlighted the importance of these products to crop production in Arizona. We are concerned that a number of elements in the EPA's Herbicide Strategy complicate and threaten the effective use of herbicides that are needed to protect yields.

Although the EPA describes the Herbicide Strategy as an efficient approach for determining the need, level, and geographic extent of mitigation for listed species from agricultural uses of conventional herbicides, it is rather complex and tedious. Growers within Pesticide Use Limitation Areas (PULAs) will face even more significant challenges as mitigation measures are more stringent in those areas.

---

<sup>1</sup> Docket No. EPA-HQ-OPP-2016-0223 – Dicamba, October 17, 2022; Docket No. EPA-HQ-OPP-2015-0077 – Diuron, July 27, 2022; Docket No. EPA-HQ-OPP-2014-0778 – Oxyfluorfen, October 4, 2021; Docket No. EPA-HQ-OPP-2011-0855-0208 – Paraquat, January 11, 2021; Docket No. EPA-HQ-OPP-2013-0661 – 2-4, DB, June 7, 2019

## Mitigations to limit potential exposure to non-target species

### *Runoff and Soil Erosion Measures*

The mitigation menu proposed in the Strategy includes a total of 18 mitigation measures to choose from. However, these measures do not apply uniformly to all areas or regions of the U.S. While we appreciate that additional mitigation measures have been added and include measures such as application areas in the west and field slope of less than 2%, many growers will remain challenged to obtain the necessary points for certain herbicides uses. The Arizona Pest Management Center (APMC) conducted a survey regarding the Herbicide Strategy and found that the majority of the runoff and soil erosion mitigation measures are not feasible or applicable to a high percentage of growers and crops within the state. In fact, only 6 of the 18 mitigation measures resulted in a “favorable” response rate in that the practices could be or might be applicable and/or feasible; however, they do not necessarily apply in all areas of the state.<sup>2</sup> Definite “Yes” responses that a mitigation was feasible tended to be low, even among the potentially viable practices. For example, the strongest “Yes” response to a mitigation practice, for <2% slope, was selected by only 44% of respondents. Even other ‘favorable’ mitigations only yielded “Yes” responses from 15%-28% of respondents. Consequently, the point system may significantly limit herbicide options, particularly those products that require a higher point value.

Several herbicides where case studies were conducted for the Strategy are significant to Arizona crop production, including Diuron, Oxyfluorfen, 2,4 D, Dicamba, metolachlor, metribuzin, MCPA, pendimethalin, trifluralin, and paraquat. The point range for these products varied from no mitigation (i.e., paraquat) to 9+ points in the case of Diuron. We are concerned that the number of mitigation measures outlined in the Strategy may not be sufficient for many growers to use the herbicides needed to protect their crops.

The most concerning aspect of the Strategy is its complexity. In discussions with growers and applicators, there were often questions seeking further clarity about the mitigation measures, calculating distances from habitat, and the information and requirements associated with Bulletins Live! Two. Additionally, calculating points would take significant time and resources, as mitigation measures would likely vary across fields and crop types.

### *Spray Drift Measures*

EPA is proposing a spray drift buffer between an application and an adjacent area where the listed species could be exposed. The buffer distance varies in aerial (200 ft to 500 ft) and ground boom applications (100 ft to 200 ft) depending on the droplet size. The buffer distance could also be greater for certain herbicides, in which case the maximum buffer distance would be required with potentially other additional measures such as a windbreak. These buffer distances could impact large portions of a field where herbicides could not be applied.

The number of spray drift mitigation measures is minimal, and the options are further minimized as several are either not applicable to Arizona agriculture or take significant time and resources to install. For example, the relative humidity mitigation measure that allows for a 25ft buffer reduction if the

---

<sup>2</sup> The most favorable response rates included irrigation water management, reduced tillage/no till, sand, loamy sand, or sandy loam soils, laser leveled or slope <2%, soil incorporation, and cover cropping.

relative humidity is greater than 60 percent will likely not occur very often in the southwest, except possibly during monsoon season. Another example of a mitigation measure that would not apply broadly in Arizona is the downwind windbreak/hedgerow. These windbreaks would be costly to install, and in the southwest, where water conservation is essential, planting and maintaining windbreaks/hedgerows may not be feasible or economical.

The APMC survey results related to the applicability of spray drift mitigation measures in Arizona found that for ground applications, the hooded sprayer and coarser droplet size mitigation measures would be or may be applicable. For aerial applications, the wind speed of 3-7 mph and coarser droplet sizes mitigation measures would be or may be applicable. Only the downwind windbreak or hedgerow mitigation measure would be or may be applicable for the airblast applications. In all cases, the applicability rates were fairly low, with the majority of respondents indicating that most of these measures would not be applicable.

There may be other spray drift mitigation measures for EPA to consider. In discussions with growers, they noted the use of tank-mix adjuvants that reduce spray drift. They also discussed new spray equipment with technology to target applications to certain areas of a field that may reduce overall spray drift. However, this equipment is relatively new and expensive and could be cost-prohibitive for smaller operations.

### Exemptions

The exemptions provided in the Strategy would be important to retain; however, we have some concerns regarding their implementation. The exemption provided by having a conservation plan developed by a conservation specialist would ensure that measures are in place to reduce runoff and erosion. However, for these plans to work effectively, they must apply to the entire farm and not just a subset of acres or fields. We further urge the agency to allow a broad range of entities and technical experts to develop such plans, including the Natural Resources Conservation Service (NRCS), state departments of agriculture, university extension, and certified crop consultants, to ensure plans are completed in a timely manner. Consideration should also be given to the cost of developing these plans and ensuring they are not cost-prohibitive.

We have several questions and concerns regarding herbicide applications made 1,000 feet away from habitat for listed species. How do growers determine and verify that they are 1,000 feet away from a habitat for a listed species? What maps will be made available to determine the location of the listed species' habitat? If maps are made available, they should be located at a site where growers and applicators may already be required to access, such as Bulletins Live! Two.

The third exemption, subsurface drainage, as defined, is not a practice common to Arizona agriculture and would apply to very few growers. Thus, the opportunity for an exemption from the mitigation menu is limited to only two options for most growers, particularly in Arizona.

### Bulletins Live! Two

The EPA's Bulletins Live! Two website is currently in place, and the Strategy notes that this online platform will be used to provide information regarding specific mitigations and is an extension of the label. However, according to the APMC survey, over half of the respondents had not heard of Bulletins Live! Two, and just a quarter of them had tried accessing the website. In addition to broader outreach

and education regarding the website, we urge EPA to continue to refine the website to ensure it is user-friendly and easy for growers to find the information they need for the products they intend to apply. The website should be mobile-friendly for those who may use their cell phone to access Bulletins Live! Two. Additionally, the bulletin that is generated should be in formats that can be printed and saved electronically to a computer or phone.

Furthermore, given that the agency intends to update the website as needed with information regarding PULAs and other ESA mitigation measures, it should consider ways in which to share with users when updates are made to specific areas (i.e., changes made within a county or state).

### Enforcement

We are also concerned about how state regulators with primacy for enforcing the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) will enforce such a complex set of regulations. Many state regulatory agencies are already faced with resource constraints. A new and complex regulatory regime for herbicide application would undoubtedly require additional resources related to monitoring and enforcement. We urge EPA to clarify how it intends to work with state regulators to address these issues.

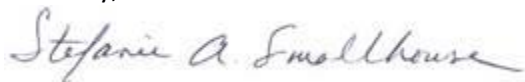
### Conclusion

As a member of the American Farm Bureau Federation, we support the comments they have submitted to this docket. Additionally, our organization is a signatory to a more technical comment letter addressing the Herbicide Strategy Framework that includes ESA and FIFRA statutory concerns and urges EPA to use the best scientific and commercially available data in its evaluation of pesticides on species and critical habitat as well as for the evaluation of protective conservation practices that are already in place across the country. Using this data would likely lead to more refined results targeting those species and habitats that are genuinely at risk of jeopardy/adverse modification due to pesticide exposure. Furthermore, EPA is encouraged to work with stakeholders to develop practical solutions for addressing species of legitimate concern.

Complying with EPA's regulatory requirements comes at an expense to growers and applicators, especially when they are complex and challenging to navigate. We urge EPA to be mindful of the regulatory burden imposed on growers as it develops strategies to comply with its ESA obligations, as the continued layering of regulatory requirements on growers and others within the industry will only lead to further consolidation. We urge EPA to fully address our concerns before finalizing the Herbicide Strategy Framework.

Thank you for your consideration.

Sincerely,

A handwritten signature in cursive script that reads "Stefanie A. Smallhouse". The ink is dark and the signature is fluid.

Stefanie Smallhouse, President  
Arizona Farm Bureau Federation