



Submitted via Regulations.gov

October 20, 2023

Jan Matuszko
Director
Environmental Fate and Effects Division
Office of Pesticide Programs
Environmental Protection Agency
1200 Pennsylvania Ave., NW
Washington, DC 20460

RE: *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; Docket No. EPA-HQ-OPP-2023-0365*

Dear Ms. Matuszko:

The Illinois Farm Bureau® (“IFB”) appreciates the opportunity to comment on *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*. We are writing to express significant concerns with the draft herbicide strategy (hereafter “herbicide strategy”) in terms of the numerous impacts that would impact Illinois agricultural producers.

IFB is a member of the American Farm Bureau Federation® (“AFBF”), a national organization of farmers and ranchers. Founded in 1916, IFB is a non-profit, membership organization directed by farmers who join through their County Farm Bureaus (“CFBs”). IFB has a voting membership of more than 74,000, representing farmers from a wide array of operations, including row crops like corn, soybeans, and wheat, livestock operations, as well as a diverse number of specialty crops.

America’s farmers and ranchers work the land to produce food, fiber, and fuel, and we also recognize the vital role our land plays in sustaining wildlife. For generations, farmers and ranchers have worked to do more with less. For example, we have voluntarily placed 140 million acres of land in conservation programs, which help provide wildlife habitat. Farmers are partners in conserving our natural resources and the wildlife with which we share those resources.



ILLINOIS AGRICULTURAL ASSOCIATION®

1701 Towanda Avenue • P.O. Box 2901 • Bloomington, Illinois • 61702-2901
Phone: 309.557.2111 • Fax: 309.557.2559 • www.ilfb.org

"Improve the economic well-being of agriculture and enrich the quality of farm family life."

IFB understands the Environmental Protection Agency (EPA) has legal obligations related to the Endangered Species Act (ESA) and supports the agency meeting its statutory requirements. IFB also recognizes EPA has committed itself to an aggressive timetable via court settlement for implementing the herbicide strategy and other ESA-related pilots and strategies. IFB supports environmental stewardship, as relevant IFB policy states, “IFB supports farming methods that result in environmental stewardship” IFB also supports the agency’s work to develop regulations consistent with science-based data and appropriate consideration of risk, to protect human health and the environment in communities across our nation while not jeopardizing food security, per a myriad of IFB policies. As drafted, the herbicide strategy would place costly regulatory burdens on individual farming operations and jeopardize their continued viability. If implemented as proposed, the herbicide strategy would be disastrous for Illinois farmers, our rural communities, as well as our food supply chain.

Below we have identified primary concerns among Illinois farmers and pesticide users, as well as identified some approaches that may minimize the impact of the strategy.

Quantification of Yield Reductions and other economic impacts

EPA should conduct an economic analysis, including data about potential yield reductions, when developing any ESA-related proposal which results in additional herbicide regulations. Agricultural applications of herbicides are exceedingly important to the continued viability of farming operations and carry a multitude of benefits. Weeds compete with crops for limited resources, such as nutrients, moisture, and sunlight, resulting in significant yield reductions. If not properly managed, weeds can be economically devastating to farming operations and the communities in which they reside. Farmers are currently faced with increasingly tight margins and must have a wide array of tools available to maintain profitability. Yield losses and associated economic pressures will undoubtedly create uncertainty and could place operations at significant financial risk.

Yield reduction and economic impact data from potential herbicide restrictions must not omit the following:

- Noxious and herbicide-resistant weed pressures. Many noxious weeds have been shown to cause significant crop damage and yield losses if left unmanaged. In the case of herbicide-resistant weeds, growers and applicators will often mix or rotate herbicides to terminate and prevent the spread of herbicide-resistant weeds. Restricted use of herbicide products will risk the proliferation of noxious and herbicide-resistant weeds, placing yield loss pressures on producers.
- Specialty crop implications. Specialty crop producers are especially vulnerable to intense weed pressure as producers may have limited access to appropriate products that can manage weeds. For operations facing herbicide resistance, the pressures to find appropriate products will only be magnified for specialty crop productions.
- Livestock implications. Grazing pastures for livestock rely on herbicides to manage weed in pastures and keep them productive for grazing purposes.
- Conservation practice implications. Conservation practices such as cover crops and reduced tillage are often managed with an herbicide application. As a result, herbicides can assist farmers in making reductions in fuel usage, reduced soil tillage, water conservation and other benefits.

Mitigation Measures

The mitigation measures offered in the strategy are predominantly too costly, overburdensome, or unattainable for Illinois producers. Specific feedback and suggestions include:

- Mitigation points. In many instances, the mitigation points developed for individual crops represent an unattainable number of “points” for adopting certain runoff-mitigation practices. In addition, on operations that grow multiple crops, varying mitigation point values will certainly create confusion among growers and product applicators. A more flexible “point” system could be developed including recognizing cover crops and other innovative conservation practices. Education or training programs could also be a valuable mitigation measure, while alleviating pressure from growers to interpret unclear components of the labels or mitigation strategies.
- Exemptions. Tile drainage is a crucial tool for Illinois agriculture, allowing farmers to manage in-field drainage. The suggestion to require tile drainage water be directed and released into a controlled system represents an impossible challenge. IFB requests that changes to tile drainage not be considered in the herbicide strategy. In addition, we suggest allowing runoff mitigation exemptions by making available for applications more than 1,000 feet from terrestrial or aquatic habitat.
- Notice for applications. Requiring a number of weeks’ notice prior to an herbicide application is not realistic as herbicide applications are applied when a specific weed is spotted. IFB suggests developing a more flexible timeline for growers that allows them to make additional applications when noxious or herbicide-resistant weeds are identified.
- Mapping concerns. We have identified several concerns with the maps developed in the herbicide strategy. Specifically, growers and herbicide product applicators will likely find it difficult to or lack the ability to determine if located in a pesticide use limitation area (PULA). Additionally, if/when determined, growers and applicators will be responsible for determining if they need to adjust products and/or application rates for a particular area, even if the PULA divides fields or other accepted boundaries. In many instances, farmers will need to adjust their entire operations around PULA point requirements to streamline applications as well as costs, even if other herbicides are not subject to greater PULA-related point requirements.
- Buffers and windbreaks. Determining precise spray drift buffer requirements is extremely complicated. Tools like Bulletins Live Two, are not practical for growers who are operating in short windows of time to apply products and who may have issues accessing the interface in the first place. The stated distances for spray drift buffers are immense and, in some instances, a wind break may be required. Windbreaks are potentially cost prohibitive and not practical. For instance, the wind direction may be away from the windbreak at the time of application, making the windbreak an impractical and financially frivolous tool.
- Responsibility to verify and comply. Like many farming operations across the Midwest, numerous Illinois farms rely on the use of retail applicators to apply herbicide and other pesticide products. Being cognizant of the fact herbicide applications are often outsourced, we have significant concerns regarding who will be held responsible for verifying drift and erosion mitigation measures - the owner of the property, the farmer, or the applicator? This must be addressed in future iterations of the strategy to alleviate confusion among farmers, farm operators, and the agriculture retail community.

Collaboration

EPA should work in conjunction with impacted stakeholders prior to publication of a strategy in order to identify their concerns and suggested solutions for proposed rules. Impacted stakeholders of this herbicide strategy include, but are not limited to, state and local implementing agencies, growers, retailers, registrants, NGO's, etc. Issues identified with the draft strategy regarding collaboration and implementation include:

- Agency presence. U.S. Fish and Wildlife Service has a minimal presence in rural Illinois; therefore, it would be exceedingly difficult identifying specifically who to contact to verify if an endangered species is present or if general questions arise among growers. In addition, there exists a significant lack of clarity on who will be charged with verifying compliance at the state and local levels. The agencies should take action to identify these entities and ensure that they are knowledgeable of agricultural practices.
- PULA mapping. Maps identifying PULAs were developed with only U.S. Fish and Wildlife Environmental Conservation Online System. We implore the agency to explore additional options for mapping PULAs, as the draft uses maps that list a species as present throughout the county, when the species may only be in a fraction of a county. We encourage the agencies to work with the many additional sources of species' maps such as those from state regulatory agencies, private commercial range database services and others.
- Penalties. The lack of clarity regarding which statute a penalty may fall under is creating significant levels of concern among growers. Criminal charges and the potential for whistleblowing should not be considered as penalties are developed, as they will certainly create increased levels of distrust in the agency and among neighbors.

The complex, costly and cumbersome draft strategy presents significant negative impacts on Illinois farmers as it fails to quantify and recognize the vast variability in Illinois fields or provide viable mitigation options. IFB strongly encourages EPA to make significant changes to this draft strategy by addressing some of the concerns presented here. We would welcome opportunities to engage in continued dialogue to address any unanswered questions or further elaborate.

Thank you for your thoughtful consideration of these comments. If you have questions, please contact Amelia Cheek, Associate Director of Environmental Policy, at acheek@ifb.org or 309.557.3220.

Sincerely,



Richard L. Guebert, Jr.
President
Illinois Farm Bureau®
1701 Towanda Avenue
Bloomington, IL 61701-2050