



## TENNESSEE FARM BUREAU FEDERATION

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October 20, 2023

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

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

Dear Ms. Matuszko,

The Tennessee Farm Bureau Federation (TFBF) submits these comments regarding the proposed rule entitled *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"). Our member producers express grave concern with the Environmental Protection Agency's (EPA) proposed plan to protect listed species under the Endangered Species Act (ESA) by imposing increased restrictions on agricultural herbicide use. We urge the EPA to consider these comments and comments submitted by the American Farm Bureau Federation, the National Association of State Departments of Agriculture, the Pesticide Policy Coalition, and other agricultural organizations and commodity groups.

TFBF represents a diverse group of commodity producers across the state and, with over 685,000 members, is the largest general farm organization in Tennessee. Agricultural producers in Tennessee and nationwide are deeply interested in protecting the environment based on philosophical beliefs and practical self-interest. Responsible use of herbicides is a foundational component of farmers' daily use of best management practices. We oppose the curtailment of the proper use of crop protection products. Environmental regulations should recognize the essential nature of efficient and safe use of herbicides as a basic and integral part of agricultural production. We recognize the intent of the ESA but do not believe the protection of these species necessitates such draconian restrictions on production agriculture.

### **Background**

Tennessee farmers produce many crops including soybeans, corn, wheat, cotton, tobacco, fruits and vegetables, nursery crops, and hay. These crops face intense pressure from numerous varieties of weeds. Weeds pose significant threats to crop yields by competing for nutrients, sunlight, water, and other resources, resulting in substantial economic losses to a farmer's operation. Weeds also negatively affect the nutritional value of pastures and hay fed to livestock; some can even be toxic to certain species. Producers utilize herbicides to counteract these pressures and produce the highest quality product most efficiently.

EPA has a responsibility to adhere to the requirements of the ESA and, in response to recent court proceedings, has developed a multi-faceted workplan addressing the registration process for crop protection products and strategies for application to protect listed species. This proposed Herbicide Strategy framework is just one of many strategies EPA is proposing. TFBF recognizes the EPA's intent with this plan and the agency's desire to expedite the plan. However, the proposed Herbicide Strategy is essentially unworkable for agricultural producers and applicators to comply with and will result in monumental changes to the agricultural landscape in Tennessee and across the country. Such expansive changes should be carefully considered to arrive at workable, science-based policies that acknowledge economic impacts, not ones achieved in the fastest manner to satisfy an arbitrary date set by the courts.

The proposed Herbicide Strategy threatens most farmers' ability to remain a viable business by limiting the use of essential crop protection products for the reasons listed below.

### **Runoff/Erosion Mitigation Measures**

In this strategy, the EPA has assigned specific runoff and erosion mitigation practices with "efficacy points" and is proposing applicators must meet a pre-determined number of points before applying particular herbicides. These practices range in value and include conservation techniques such as cover crops, no-till, vegetative filler strips, contour terracing, and others. Growers could need at least six points to comply with general label restrictions, and growers located within pesticide use limitation areas (PULAs) could need to obtain as many as nine or more efficacy points to apply certain herbicides on their land. Implementing even one of these practices comes at a hefty cost to a farmer's operation and is timely to install. With the margins of farming operations already being limited, additional costs associated with implementing extra practices will place even more undue pressure on an operation's finances.

TFBF commends EPA's recognition of practical, commonly used production practices in Tennessee agriculture, such as reduced tillage and cover crops. No-till and conservation tillage practices are a key feature of Tennessee row crop production and, depending on the crop, are practiced on 80 percent of cropland in Tennessee, which leads the nation. Applying herbicides to address weed pressures allows farmers to avoid tilling the land. However, taking away the option to neutralize weeds with herbicides will lead to farmers decreasingly using reduced tillage as a conservation practice. Additionally, 15 percent of Tennessee cropland utilizes cover crops or double-cropping wheat and soybeans. Similarly, when utilizing cover crops, farmers must terminate the cover crop before planting the primary crop, which requires the use of herbicides such as glyphosate and paraquat. Requiring cover crop usage as mitigation for herbicide use but eliminating the ability to use the same herbicides needed for a successful cover crop program is another way this strategy proves to be impractical. Limiting herbicides will threaten the very conservation practices the EPA requires in the strategy.

Another mitigation measure EPA proposes in the efficacy point system is reducing application rates. This practice is worth anywhere from 1 to 9 points, depending on the reduction rate percent. Although we acknowledge EPA's recognition of resistance issues, we are still concerned about encouraging this practice. Extensive science-based research has been done on all registered herbicides to develop the current application rates for each product. Factors such as efficacy, safety, and resistance prevention are all considered when determining these

application rates. In every case, these rates are already as low as can be reasonably applied to meet the needs of the herbicide. Inadequate application rates will reduce the efficacy of neutralizing pests and hasten resistant pest buildup. Pesticide resistance is an ever-growing threat to production agriculture, and farmers need all the tools available to produce the world's food, fiber, and fuel.

### **Spray Drift Mitigation Measures**

The Herbicide Strategy recognizes spray drift as another potential risk to listed species. To mitigate this risk, growers must implement spray drift buffers of up to 500 feet for aerial applications and up to 200 feet for ground sprays. Although we appreciate the ability to reduce these distances with extra mitigations like coarser droplet sizes, windbreaks, or hooded sprayers, they are still excessive and will take large areas of land out of production and negatively affect profitability of the operation. Furthermore, adding the other mitigation measures is also costly, placing an even heavier burden on a farmer's costs.

### **Pesticide Use Limitation Areas and Critical Habitats**

EPA has designated PULAs where critical habitats of different listed species are believed to be located and plans to impose more extensive restrictions on pesticide applicators within these areas. For this strategy, EPA has outlined four separate PULAs for monocots, dicots, non-flowering plants, and animals with obligate relationships to plants located in both terrestrial and aquatic habitats. Figure 7-2 of the draft proposal shows that these PULAs cover a large portion of Tennessee's landscape. Growers are tasked with identifying whether their land qualifies as or is near a critical habitat for numerous species whose critical habitats vary. Farmers should not be expected to have the knowledge and expertise to correctly identify these broadly defined habitats to ensure compliance with the regulations.

### **Bulletins Live! Two**

TFBF also has concerns regarding EPA requiring herbicide users to access the Bulletins Live! Two website. We acknowledge its intention to provide additional information and prevent lengthy labels. However, the online nature of this system presents challenges for the many farmers across the state who need more access to reliable rural broadband. In the map located in Appendix One provided by the Tennessee Department of Economic and Community Development, which oversees the state's broadband development, the areas in green represent areas which can meet 100/20 megabits per second (mbps), and the areas in red represent areas lacking 100/20 mbps. Based on Appendix One, a large portion of the state of Tennessee still needs reliable broadband access, particularly in areas of heavy production agriculture. EPA can only reasonably expect farmers to comply with the label restrictions if they have reliable internet on their operations to access the online program. Additionally, the Bulletins Live! Two program must be easily accessible via phone or other mobile electronics.

### **Conclusion**

Farmers take pride in being the stewards of the land bestowed upon them to produce the world's food, fiber, and fuel. Part of this responsibility is actively working to protect our natural

resources and species under threat. A common-sense approach by the EPA to protect these species and the environments they inhabit would be applauded by the agriculture community. However, this proposal is an excessive overreach of that responsibility and will undo the extensive strides agriculture has taken throughout history to reduce its environmental impact. It is impractical, overly burdensome, and essentially unworkable for growers who work hard every day to feed, fuel, and clothe the nation and world. For these reasons, TFBF cannot support the Herbicide Strategy being proposed by the EPA in its current form. We urge the EPA to rescind this proposal and work with farmers and stakeholders to create a workable plan to support production agriculture and protect listed species.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink that reads "Eric Mayberry". The signature is written in a cursive, flowing style.

Eric Mayberry  
President  
Tennessee Farm Bureau Federation

## Appendix One

