TENNESSEE FARM BUREAU FEDERATION

September 23, 2024

Jake Li
Deputy Assistant Administrator
Office of Chemical Safety and Pollution Prevention
U.S. Environmental Protection Agency
1200 Pennsylvania Ave., N.W.
Washington, DC 20460

**Re: Docket No. EPA-HQ-OPP-2024-0299; Draft Insecticide Strategy to Reduce Exposure of Federally Listed Endangered and Threatened Species and Designated Critical Habitats from the Use of Conventional Agricultural Insecticides**

Dear Deputy Assistant Administrator Li,

The Tennessee Farm Bureau Federation (TFBF) submits these comments regarding the proposed rule titled, *Draft Insecticide Strategy to Reduce Exposure of Federally Listed Endangered and Threatened Species and Designated Critical Habitats from the Use of Conventional Agricultural Insecticides* ("Insecticide Strategy"). Our member farmers 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 insecticide use. We urge the EPA to consider these comments, comments submitted by the American Farm Bureau Federation, and the coalition letter of which TFBF signed onto along with other agricultural organizations.

TFBF represents a diverse group of commodity producers across the state and, with over 695,000 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 insecticides 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 insecticides 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.

147 Bear Creek Pike, Columbia, TN 38401 • P.O. Box 313, Columbia, TN 38402-0313 • Phone 931-388-7872 • Fax 931-388-5818

**Background**

Tennessee farmers produce many crops including soybeans, corn, wheat, cotton, tobacco, fruits and vegetables, nursery crops, hay, and many others. These crops face intense pressure from numerous species of insects. Insects pose significant threats to crop yields by consuming and damaging the crops intended for production, resulting in substantial economic losses to a farmer's operation. This not only affects farms who produce crops for food and fiber, but also those maintaining pasture for livestock or producing hay to be fed to livestock. Farmers utilize insecticides 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 ESA Workplan addressing the registration process for crop protection products and strategies for application to protect listed species. This proposed Insecticide 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 Insecticide Strategy is essentially unworkable for agricultural producers and pesticide 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 acknowledging economic impacts, not ones achieved in the fastest manner to satisfy an arbitrary date set by the courts.

TFBF has outlined below a series of questions and concerns regarding the proposed draft Insecticide Strategy.

**Scope of the Strategy**

By their own admission, EPA states on page 4 of the draft strategy that over 83 million acres of cropland were treated with insecticides in 2022. EPA also acknowledges that, when finalized, the Insecticide Strategy will apply to over 850 listed species across the United States. All the documents available in the Federal Register for this strategy – the draft strategy, supporting documents, appendices, and case studies – amount to over 700 pages of material. Additionally, EPA published the draft Insecticide Strategy to the Federal Register within days of publishing the finalized Herbicide Strategy. This added more material for stakeholders to sift through to properly provide input on the Insecticide Strategy based on what changes EPA made to the finalized Herbicide Strategy. It is not feasible for stakeholders to provide the desired input on the entirety of this proposal in a mere 60-day comment period. We are disappointed the EPA chose not to listen to numerous stakeholders, including TFBF, who asked for more time to properly process and respond to this incredibly long, convoluted, wide-spanning, and complicated proposal.

The EPA focuses on field-by-field mitigations for farmers to follow changing field to field, not from a total farm basis. For any given farm regardless of its size, a farmer may split their farm into tens, if not hundreds, of individual fields. EPA's approach would require a farmer to outline and calculate points and buffer distances for every field AND every pesticide they use. Not only would this take an excessive amount of time and likely require the farmer to hire someone to oversee it, but it would require outrageous amounts of record-keeping.

In section 2.2 titled, *Scope and Goals of the Draft Insecticide Strategy*, EPA outlines the strategy is "focused on agricultural uses of insecticides in the contiguous United States", which is further explained to include cultivated land but not pasture/grass or range lands[1]. According to the 2022 Census of Agriculture[2], Tennessee has over 2.3 million acres of pastureland across the state, which hosts a multitude of uses including livestock and hay production. Is pastureland used in these ways exempt from EPA's requirements in the Insecticide Strategy?

In section 3.2.2.5 of the draft strategy, EPA explains the parameters for receiving credit for using conservation programs, runoff or erosion specialists, and mitigation tracking. Among the required characteristics for the approved use of a conservation program, EPA highlights the importance of documentation and verification of participation in a program. However, it is then stated, "EPA is not suggesting that this documentation be provided to EPA" and, "verification is not required to be submitted to EPA". Similarly, EPA does not require submission of a farmer's tracking methods to receive the mitigation tracking credit. TFBF is not suggesting this information should be submitted to EPA but rather is highlighting how it is virtually impossible for a farmer to prove credit for these practices without doing so. This is just one of many ways this strategy reinforces confusion for the farmers who will have to follow it.

**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 insecticides. These practices range in value and include conservation techniques such as cover crops, no-till, vegetative filler strips, contour terracing, and others. Farmers could need as many as nine points to apply certain insecticides on their

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[1] "Draft Insecticide Strategy to Reduce Exposure of Federally Listed Endangered and Threatened Species and Designated Critical Habitats"; *US Environmental Protection Agency*; https://www.regulations.gov/document/EPA-HQ-OPP-2024-0299-0005; 17 September 2024.

[2] "2022 Census of Agriculture – Ranking of Market Value of Ag Products Sold, Tennessee"; *USDA National Agricultural Statistics Service;* *https://www.nass.usda.gov/Publications/AgCensus/2022/Online_Resources/County_Profiles/Tennessee/cp99047.pdf;* 17 September 2024.

land. Implementing even one of these practices comes at a hefty cost to a farmer's operation and is timely to install. With farmers already operating on the thinnest of margins, additional costs associated with implementing extra practices will place even more undue pressure on a farmer'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 used on 80 percent of cropland in Tennessee, making Tennessee the leading state in reduced tillage practices. However, we are concerned with a farmer's ability to use this practice going forward. In August of 2024, EPA released their Herbicide Strategy outlining similar restrictions for herbicides used to mitigate weed pressures. If farmers are going to be restricted in their ability to protect their crops from weeds by using herbicides, it will become increasingly difficult to avoid tilling the land.

Similarly, about 20 percent of Tennessee cropland utilizes cover crops or double-cropping wheat and soybeans. When doing this, farmers must terminate the cover crop before planting the primary crop. This requires the use of herbicides such as glyphosate and paraquat. In the same way, encouraging adoption of cover crops as a mitigation practice for the Insecticide Strategy, but restricting the ability to use the herbicides needed for a successful cover crop program in the Herbicide Strategy further highlights the impracticality of these proposals.

Another mitigation measure EPA is proposing in the point system is reducing application rates. This practice is worth 1 to 3 points, depending on the percent reduction from the maximum application rate on the label. TFBF is very concerned about encouraging application reduction rates. Extensive science-based research has been done on all registered insecticides 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 insecticide. 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 Insecticide Strategy recognizes spray drift as another method of exposure for listed species. To mitigate this risk, farmers must implement spray drift buffers of up to 320 feet, depending on the method of application (aerial spray, ground spray, or airblast). Although EPA provides mitigations to reduce these distances such as coarser droplet sizes, windbreaks,

hooded sprayers, and others, they are still excessive and will take significant areas of land out of production and negatively affect the profitability of a farmer's business. Adding extra mitigation measures is also costly, placing an even heavier burden on a farmer's bottom line. In addition, each mitigation practice to reduce spray drift offers a percent reduction in the total buffer distance, and farmers are responsible for keeping up with all these percentages to determine their final buffer distance for each individual field. This approach is extremely complex and adds undue burden onto a farmer to keep up with.

Properly addressing the EPA's spray drift concerns is heavily dependent on what is located downwind from the treated field. Farmers must account for the direction the wind blows to adhere to the spray drift mitigations in the strategy. Farmers cannot reasonably be expected to predict the way the wind will blow and adjust their mitigations from every field each time the wind changes direction.

The entire premise for establishing large buffers between treated fields and species habitats is to prevent off-target impacts to insects and encourage thriving populations of these listed species. However, farmers are constantly battling species which are not listed and are invasive to the crops they grow. In some cases, these species farmers are protecting against have built up resistance to insecticides. TFBF is concerned about essentially creating refuges for these invasive, insecticide-resistant species through the creation of these buffers. While these buffers may harbor the targeted listed species EPA is interested in protecting, they will likely also provide sufficient habitat for undesirable species. EPA needs to consider this and come up with solutions, so farmers do not take steps backward in their effective crop protection plans against problematic insect species.

Like the runoff/erosion mitigation points, EPA is proposing reduced application rates to decrease spray drift buffer distances. In this case, the percent reduction of the spray buffer distance corresponds to the reduction in the application rate from the maximum rate on the pesticide product label. For the same reasons previously described, TFBF is concerned about encouraging the practice of reducing application rates from the predetermined, science-based levels established on the label. Reducing these rates will encourage pest resistance and minimize the effectiveness of the insecticide.

**Pesticide Use Limitation Areas and Critical Habitats**

To provide protections for different species with different habitats, EPA has established critical habitats necessary for species' survival and identified ten pesticide use limitation areas (PULAs). These PULAs were created with the intent to categorize species into types with similar habitats for ease of implementation for different pesticides. As the implementation of the ESA Workplan continues, EPA must prioritize accurate data and mapping techniques to create

more refined PULAs which properly identify species locations relative to farm fields treated with pesticides. Doctors Stanley Culpepper and Taylor Randell-Singleton with University of Georgia Extension have partnered with the Georgia Department of Agriculture, Georgia farmers, the U.S. Fish and Wildlife Service, and EPA to develop Georgia's Endangered Species Act Pilot Program[3]. Drs. Culpepper and Singleton's work has been crucial to begin mapping listed species and their critical habitats throughout Georgia to study their spatial relationship to pesticide use sites and cropland across the state. Thanks to this work, sound data exists supporting significantly refined PULAs and areas of critical habitat, leading to more effective identification and protection of listed species, their locations, and protecting production agriculture across the state. When considering PULAs and critical habitats going forward, EPA should take this similar approach and prove their dedication to protect listed species without negatively impacting large areas of production agriculture across the country.

**Bulletins Live! Two**

TFBF also has concerns regarding EPA's requirement for insecticide 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 many farmers across Tennessee and the nation 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 regions which can meet 100/20 megabits per second (mbps) and the areas in red represent regions 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 label restrictions if they have reliable internet on their farms to access the online program. Additionally, the *Bulletins Live! Two* program must be easily accessible via phone, tablet, and/or other mobile electronics.

**Interim Ecological Mitigation Menu vs. Runoff and Spray Drift Mitigations**

Early in the EPA's ESA Workplan process, it was announced EPA may include a variety of FIFRA Interim Ecological Mitigation (IEM) measures on FIFRA section 3 labels, which seek to reduce exposure from nontarget organisms based on ecological risk assessments. Although EPA has indicated its intention to align the IEM with the recently finalized Herbicide Strategy and this Insecticide Strategy, it is imperative for EPA to make the distinctions among all these different proposals clear and easily understandable for farmers. Asking farmers to reference multiple documents and websites, including the *Bulletins Live! Two* website, to obtain access to all of

[3] "UGA Extension protects family farms and sensitive species"; *University of Georgia College of Agricultural and Environmental Sciences;* https://cultivate.caes.uga.edu/uga-extension-improves-land-stewardship/index.html; 18 September 2024

EPA's newfound requirements is only going to foster confusion and the potential for unintentional non-compliance by farmers simply due to an oversaturation of information.

**Conclusion**

Farmers take pride in being 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 incredibly unworkable for farmers who work hard every day to feed, fuel, and clothe the nation and world. For these reasons, TFBF cannot support the Insecticide Strategy being proposed by the EPA in its current form. We strongly urge the EPA to rescind this proposal and work with farmers and stakeholders to create a more simple, workable plan to support production agriculture and protect listed species.

Thank you for your consideration.

Sincerely,

Eric Mayberry
President
Tennessee Farm Bureau Federation

**Appendix One**