



February 14, 2023

Melanie Biscoe  
Pesticide Re-Evaluation Division (7508P),  
Office of Pesticide Programs,  
U.S. Environmental Protection Agency,  
1200 Pennsylvania Ave. NW, Washington, DC 20460-0001

**Re: Comments on the Endangered Species Act (ESA) Workplan Update: Nontarget Species Mitigation for Registration Review and Other FIFRA Actions, Docket # EPA-HQ-OPP-2022-0908**

Dear Ms. Briscoe:

On behalf of the Agricultural Retailers Association (ARA), I am submitting comments on the U.S. Environmental Protection Agency's (EPA) 2022 Endangered Species Act (ESA) Work Plan Update: Nontarget Species Mitigation for Registration Review and other FIFRA Actions (Work Plan Update).

**Statement of Interest**

ARA is a not-for-profit trade association that represents America's agricultural retailers and distributors. ARA members provide goods and services to farmers and ranchers which include fertilizer, crop protection chemicals, seed, crop scouting, soil testing, custom application of pesticides and fertilizers, and development of comprehensive nutrient management plans. Retail and distribution facilities are scattered throughout all 50 states and range in size from small family-held businesses or farmer cooperatives to large companies with multiple outlets.

**Comments**

ARA's agricultural retail members and their farmer customers are faced with constantly evolving pest and disease threats that impact their ability to produce America's food, feed, fuel, and fiber. Our industry needs essential pesticides, fertilizers, seeds, biostimulants, and other modern agricultural technologies to remain globally competitive, maintain the ability to produce the healthiest, most abundant food supply for consumers, and protect the public health. ARA agrees that it is important for the EPA to develop a work plan to fully comply with the agency's obligations under the ESA as well as the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). However, ARA believes the proposed additional modifications need to be made to the ESA Work Plan to ensure it does not cause severe disruptions to America's agricultural industry -

- **Evaluate New Pesticides and Account for Advancements in Technologies** - It is important for EPA to fully evaluate newer chemistries, even if in the same class as some older chemistries, as they may behave very differently—and may be more likely to have a narrower

spectrum of activity—than older chemistries. EPA must NOT group pesticides in broad classifications without evaluating and accounting for any potential distinctions.

- **County-Level Bans are Ineffective, Inefficient, Overly Broad Measures** - EPA and the Services have put significant time and effort into preparing science-supported BEs and have developed a new approach. For example, they have concluded that county-level bans are ineffective, inefficient, and overly broad measures that discourage growers from proactively engaging on avoiding exposure to nontarget species. EPA should follow-suit and ensure that this is not an option going forward. It is important that all stakeholders focus on appropriate and effective solutions.
- **Local Certified Crop Advisor (CCA) / Agronomist Included as Part of ESA FIFRA Label Mitigation Pick List** - EPA is implementing mitigation measures as a pick list that gives pesticide applicators a choice to implement certain practices. If this is part of EPA's process moving forward, ARA recommends that one of the main options included on the pick list relates to farmers working with their local agricultural retailer' agronomist / Certified Crop Advisor (CCA) to develop pesticide mitigation measures. Agricultural retailers and their CCA's are partners with farmers on the front lines of critical decisions in agriculture to address pest concerns, sustainable agricultural practices, and tight financial margins to produce a crop.
- **Incorporate Agricultural retailers and other end user input to determine feasibility of mitigation measures along with providing flexibility for the industry** - Agricultural retailers, commercial applicators, and their farmer customers must be involved when EPA is considering mitigations measures. EPA must ensure stakeholder engagement of end users of the product. Agricultural retailers and their farmer customers should have meaningful opportunities to participate in the registration and re-registration review process at the beginning, middle, and end of any final decisions, including FIFRA label requirements that the pesticide applicator will need to follow.
- **EPA and the Services must establish efficient processes to complete the entire registration/consultation process** - ARA agrees with recommendations made by the Pesticide Policy Coalition (PPC) that "EPA must adopt more efficient approaches to meeting its ESA obligation." EPA should adopt policies that allow pesticide registrants to provide input on how best to refine upfront mitigation measures based on additional data. It is important for EPA and the Services to ensure registrants, agricultural retailers, commercial applicators, and farmers are involved in agency decision making at every major step of the registration review process and label decision making process. It is critical that the Services and the registrants, agricultural retailers, commercial applicators, and farmers be included in discussions with EPA at every major step of the ESA consultation process to finalize mitigations before finalizing FIFRA labels.

- **Prioritize development of programmatic consultations.** All parties to the pesticide registration process, from registrants to state regulators to agricultural retailers to end-users, would be well-served by developing programmatic consultations on a pesticide-class basis (herbicides, insecticides, etc.) that include practices which might avoid jeopardy for all species. As previously stated, individual products, and especially newer chemistries may behave differently, and be more likely to have a narrower spectrum of activity than some older chemistries or otherwise present a different potential risk profile. So, while considering programmatic consultations, EPA assessments that group pesticides together individual registration assessments may need to evaluate and account for these distinctions.

### **Conclusion**

Thank you for your review and consideration of our comments! ARA supports comments submitted on behalf of the PPC as well as comments submitted by the Michigan Farm Bureau. ARA and its members are committed to sustainable agricultural practices that protects the environment, human health, and endangered species. We look forward to continuing working with EPA and the Services regarding these proposed recommendations as EPA finalizes their ESA Work Plan.

Sincerely,



Richard D. Gupton  
Senior Vice President, Public Policy & Counsel