

## AAPCO ESA Workgroup Summary – EPA Request for Comments on “Appendix to ESA Workplan Update”.

EPA issued a document entitled “ESA Workplan Update” on November 16, 2022. This document provides EPA plans to meet its obligations under the Endangered Species Act (ESA) through pesticide registration and re-registration decisions. The document includes a description of EPA’s plans to mitigate ecological risks during registration review (Section II of the report). The Agency plans to “prioritize the issuance of interim decisions (IDs) based on opportunities to reduce a pesticide’s risk to human health or the environment and to efficiently complete its registration review cases (e.g., reviewing similar pesticides simultaneously)”.

When ecological risks are identified, the Agency plans to include “interim mitigation measures” to reduce exposure to nontarget species, including listed species. These measures are enumerated in Section III of the Update. EPA will propose appropriate mitigation measures in the Interim Decisions. EPA will also group pesticides with similar use patterns and risks. For example, rodenticides may have similar mitigation measures proposed. These mitigation measures will be added to the pesticide label. The Appendix of the Update contains proposed labeling language for Interim Ecological Mitigation, BLT, and other initiatives described in the workplan update. EPA is seeking public comments on the appendix through [www.regulations.gov](http://www.regulations.gov) docket number EPA-HQ-OPP-2022-0908.

The Association of American Pesticide Control Officials (AAPCO) is following the development of EPA’s ESA workplan through an ESA Workplan Committee to engage and organize feedback from State Lead Pesticide Agencies (SLAs). As the Workplan is developed and implemented, SLAs will have multiple opportunities to provide feedback.

Current and near-term public comment opportunities include:

- The proposed mitigation language in the Appendix to the ESA Workplan Update: Proposed Label Language for Public Comment – **Comments due by February, 14, 2023**
- The PIDs for dicloran (DCNA), etofenprox, norflurazon, and the thiophanate-methyl/carbendazim (TM/MBC) that will include some of the FIFRA Interim Ecological Mitigation measures, issued December 23, 2022 – **March 8, 2023**
- The ESA registration review pilots for methomyl, carbaryl, rodenticides, and certain neonicotinoids that will include early ESA mitigation for certain species – **comment period to be specified when the results of the registration review for these pesticides are published,**
- EPA vulnerable species pilot – **sometime in 2024**
- EPA strategies for herbicides – **Spring 2024**
- EPA strategies for rodenticides - **November 2023**

At this time, AAPCO is providing a summary to SLAs that are looking to comment on the proposed mitigation language in the Appendix published in the ESA Workplan Update.

AAPCO expects that SLAs could have comments on the effects/enforceability of label statements and BLT Pesticide Use Limitation Areas (PULAs) that will fall into three broad categories:

- Effects of the need for training and certification and applicators
- Effects on the process of pesticide use compliance
- Effects on crop production, structural pest management, or public health pest management (beneficial uses).

Accordingly, tables are provided below for SLAs to review potential areas for comment for the proposed mitigation language specified in the Appendix. In addition, for each of the proposed mitigation categories, EPA has specific questions which they are asking, and SLAs are encouraged to comment on these.

There are seven specific areas for which comments are being requested. These are provided in separate sections below in a table format, (Tables A through G below) along with the set of specific questions identified by USEPA in the document. The seven areas for comment are:

- A. Comments on Bulletins Live Two (BLT) language
  - A.1. Label Statement: ENDANGERED AND THREATENED SPECIES PROTECTION REQUIREMENTS
  
- B. Surface Water Protection Statements and Conservation Measure Pick List to Reduce Ecological Risks from Surface Water Runoff
  - B.1. Label Statement: SURFACE WATER PROTECTION STATEMENT
  - B.2. Dissolved Runoff Mitigation
  
- C. Surface Water Protection Statement and Conservation Measure Pick List to Reduce Ecological Risks from Soil Erosion
  - C.1. Surface Water Protection Label Statements
  - C.2. Erosion Mitigation for Soil-sorbed Pesticides
  
- D. Reducing Ecological Risks from Spray Drift
  - D.1. Application Method Prohibition (e.g., aerial)
  - D.2. Spray Drift Management Application Restrictions – Aerial Applications
  - D.3. Spray Drift Management Application Restrictions – Airblast Applications
  - D.4. Spray Drift Management Application Restrictions – Ground Boom Applications
  - D.5. Spray Drift Buffers to Aquatic Habitats
  - D.6. Spray Drift Buffers to Wildlife Conservation Areas
  
- E. Pesticide-Treated Seed: Proposed Label Language and Considerations for Future Ecological Mitigation
  - E.1. Seed Treatment Dye Statement
  - E.2. On-farm seed treatment products
  - E.3. Seed Treatment Seed Bag/Container Labeling for Products Allowed for Commercial Seed Treatment and On-farm Seed Treatment (to appear on seed bag tags when treated seeds are to be sold or distributed)
  
- F. Promoting Pollinator Stewardship: Proposed Advisory Language
  - F.1. Pollinator Hazard Statement
  - F.2. Best Management Practices for Pollinator Protection
  
- G. Ecological Incident Reporting Label Language
  - G.1. Ecological Incidents Statement

It is possible that SLAs may have similar comments to a number of interim measures. Please provide comments in the manner most representative to your situation. You may choose to refer to a previous comment by indicating the place in the document where this comment was made using the letter and number assigned in this document. (e.g. A.1.). A list of the comment areas (Overview of Requested Comments) is also provided to help organize the comment process.

## Comment Tables

### A. Comments on Bulletins Live Two (BLT) language:

EPA expects to regularly propose language for pesticide labels instructing the product’s users to access the Bulletins Live! Two (BLT) website to obtain geographically specific mitigation for listed species or their designated critical habitat. EPA is proposing to revise the standard language referencing BLT to improve understanding of the language. EPA seeks feedback on these proposed revisions, which appear in the table below. Additionally, EPA is requesting specific feedback on the following questions:

- Is the label language below on how to obtain Bulletins through BLT clear? Is it easy to understand what actions are required of users, and when?
- Does 6 months give stakeholders enough time to plan for planting and other needs?
- If your comments suggest the answer is no for either of these questions, please include suggestions for alternative language and any appropriate data to support your suggestions. Affirmative comments on the proposed revisions are helpful as well.

|    | Description   | Proposed Revised Label Language for Pesticide Products  | Placement on Label   | Effects on training and certification efforts | Effects on compliance efforts | Effects on beneficial uses |
|----|---|---|--|---|-------------------------------|----------------------------|
|    |   | <b>End Use Products</b>   |  |   |                               |                            |
| 1. | <p><b>Endangered Species Protection Requirements</b></p> <p>To be proposed for all products, excluding those</p> <ul style="list-style-type: none"> <li>• labeled/registered solely for residential use; or</li> <li>• where exposure is negligible or there are no toxic effects expected across uses included on a label (e.g., cattle ear tag, fly baits)</li> </ul> | <p><b>“ENDANGERED AND THREATENED SPECIES PROTECTION REQUIREMENTS:</b></p> <p>It is a Federal offense to use any pesticide in a manner that results in an unauthorized “take” (e.g., kill or otherwise harm) of an endangered species and certain threatened species, under the Endangered Species Act section 9. When using this product, you must follow the measures, including any timing restrictions, contained in the Endangered Species Protection Bulletin for the area where you are applying the product. Before using this product, you must obtain a Bulletin at any time within six months of the day of application. To obtain Bulletins, consult</p> | <p>Directions for Use, under the heading “ENDANGERED AND THREATENED SPECIES PROTECTION REQUIREMENTS”</p> |   |                               |                            |

<http://www.epa.gov/espp>. For general questions or technical help, call 1-844- 447-3813, or email [ESPP@epa.gov](mailto:ESPP@epa.gov).”

**B. Surface Water Protection Statements and Conservation Measure Pick List to Reduce Ecological Risks from Surface Water Runoff**

EPA seeks feedback on the example label language in the table below. Additionally, EPA is requesting specific feedback on the following questions:

- Regarding the surface water protection statements, are there additional criteria for proposing mitigation that EPA should consider?
- Are the descriptions of the pick list mitigation measures in Section 4 clear? If not, consider suggesting alternative language.
- Are there other measures that are effective in controlling dissolved runoff that should be included in the pick list? Include supporting data with any suggestions.

|    | Description  | Proposed Label Language for Pesticide Products  | Placement on Label   | Considerations for Proposing Mitigation   | Effects on training and certification efforts | Effects on compliance efforts | Effects on beneficial uses |
|----|--|---|--|---|---|-------------------------------|----------------------------|
|    |  | <b>End Use Products</b>   |  |   |   |                               |                            |
| 1. | <p><b>Surface Water Protection Statements</b></p> <p>To be considered for products delivered via liquid spray applications to crops that do not require production in flooded fields or streams.</p> | <p><b>“SURFACE WATER PROTECTION STATEMENT</b></p> <ul style="list-style-type: none"> <li>• Do not apply during rain.</li> <li>• Do not apply when a storm event likely to produce runoff from the treated area is forecasted (by NOAA/National Weather Service, or other similar forecasting service) to occur within 48 hours following application.”</li> </ul> | <p>Directions for Use –Under the Restriction</p> <p>or Use Restriction Section</p> | <p>Pesticides applied to agricultural crops with <math>Koc \leq 1000</math> in one soil tested that are applied by liquid spray or granules and that have ecological risk due to dissolved runoff.</p> <p>Only include “storm event” bullet when <math>Koc \leq 100</math> in one soil tested, AND either aerobic metabolism or</p> |   |                               |                            |

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|  |  |  |  | foliar degradation half-life is < 2 days<br><br>Notes: <ul style="list-style-type: none"> <li>• A pesticide with a <math>K_{oc} \leq 100</math> is highly mobile in soil, primarily moving across and through soils in water.</li> <li>• An aerobic metabolism half-life is the time it takes for half of the applied pesticide to degrade in soil.</li> <li>• A foliar degradation half-life is the time required for half the concentration of the pesticide to be reduced, degrade, metabolize, or otherwise dissipate after application to foliage.</li> </ul> |  |  |  |
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|    | Description   | Proposed Label Language for Pesticide Products   | Placement on Label  | Considerations for Proposing Mitigation   | Effects on training and certification efforts | Effects on compliance efforts | Effects on beneficial uses |
|----|---|--|---|---|---|-------------------------------|----------------------------|
| 2. | <b>Dissolved Runoff Mitigation</b><br><br>To be considered for products delivered via liquid spray or granular applications to agricultural crops | <b>“RUNOFF MITIGATION</b><br><br>Users of this product must access [website address] and follow the instructions in the descriptions for one of the following mitigation measures: | Directions for Use – Under the Restriction or Use Restriction Section | Pesticides with $K_{oc} \leq 1000$ in one soil tested that are applied by liquid spray or granules and that have ecological risk due to dissolved runoff. |   |                               |                            |

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|  | <p>that do not require production in flooded fields or streams.</p> | <ul style="list-style-type: none"><li>• Vegetative filter strip (30 ft minimum width)</li><li>• Field border</li><li>• Field terracing/ contour buffer strips</li><li>• Contour farming</li><li>• Cover cropping</li><li>• No/reduce tillage</li><li>• Grassed waterways</li><li>• Riparian buffer zone/ riparian herbaceous zone</li><li>• Vegetative/grassed ditch banks</li><li>• Runoff retention pond/ water and sediment control basin/ sediment catchment basin/ constructed wetland</li><li>• Strip cropping</li><li>• Vegetative barriers</li><li>• Mulching with natural materials</li><li>• Alley cropping</li></ul> |  | <p>Note:</p> <ul style="list-style-type: none"><li>• A pesticide with a <math>K_{oc} &lt; 1000</math> readily moves across and through soils in water.</li></ul> |  |  |  |
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### C. Surface Water Protection Statement and Conservation Measure Pick List to Reduce Ecological Risks from Soil Erosion

EPA seeks feedback on the example label language in the table below. Additionally, EPA is requesting specific feedback on the following questions:

- Are the descriptions of the pick list mitigation measures in Section 4 clear?
- Are there other measures that are effective in controlling erosion that should be considered?
- Although artificial mulches are commonly used in agriculture, EPA is limiting mulches to natural materials. Should EPA also consider artificial mulches as a pick list measure? If so, to what extent do artificial mulches reduce erosion? Provide references for supporting data.

|    | Description  | Proposed Label Language for Pesticide Products   | Placement on Label  | Considerations for Proposing Mitigation   | Effects on training and certification efforts | Effects on compliance efforts | Effects on beneficial uses |
|----|--|--|---|---|---|-------------------------------|----------------------------|
|    |  | <b>End Use Products</b>  |   |   |   |                               |                            |
| 1. | <p><b>Surface Water Protection Statements</b></p> <p>To be considered for products delivered via liquid spray applications to crops that do not require production in flooded fields or streams.</p>           | <p><b>“SURFACE WATER PROTECTION STATEMENT</b></p> <ul style="list-style-type: none"> <li>• Do not apply during rain.”</li> </ul>   | Directions for Use –Under the Restriction or Use Restriction Section  | <p>Pesticides applied to agricultural crops with Koc &gt; 1000 in all soils that are applied by liquid spray or granules and that have ecological risk due to soil erosion (movement of the pesticide when it sorbs to soil).</p> <p>Note:A pesticide with Koc’s &gt; 1000 is strongly adsorbed onto soil and organic matter.</p> |   |                               |                            |
| 2. | <p><b>Erosion Mitigation for Soil-sorbed Pesticides</b></p> <p>To be considered for products delivered via liquid spray applications to crops that do not require production in flooded fields or streams.</p> | <p><b>“EROSION MITIGATION</b></p> <p>Users of this product must access the [website address] and follow the instructions in the descriptions for one of the following mitigation</p> | Directions for Use – Under the Restriction or Use Restriction Section | Pesticides applied to agricultural crops with Koc > 1000 in all soils that are applied by liquid spray or granules and that have ecological risk due to soil erosion (movement of the pesticide when it   |   |                               |                            |

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|  |  | <p>measures:</p> <ul style="list-style-type: none"> <li>• Vegetative filter strip (20 ft minimum width)</li> <li>• Field border</li> <li>• Field terracing/ contour buffer strips</li> <li>• Contour farming</li> <li>• Cover cropping</li> <li>• No/reduce tillage (residue management)</li> <li>• Grassed waterways</li> <li>• Riparian buffer zone/ riparian herbaceous zone</li> <li>• Vegetative/grass ed ditch banks</li> <li>• Runoff retention pond/ water and sediment control basin/ sediment catchment basin/ constructed wetland</li> <li>• Strip cropping</li> <li>• Vegetative barriers</li> <li>• Mulching with natural materials</li> <li>• Alley Cropping”</li> </ul> |  | <p>sorbs to soil).</p> <p>Note:<br/>A pesticide with Koc's &gt; 1000 is strongly adsorbed onto soil and organic matter.</p> |  |  |  |
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#### D. Reducing Ecological Risks from Spray Drift

EPA seeks feedback on the example label language for this mitigation detailed in the table below. Additionally, EPA is requesting specific feedback on the following questions:

- Should EPA shift to requiring wind-directional buffers to reduce spray drift associated with aerial, ground boom, and/or airblast applications? Why or why not? Be specific and support your position with data where available. Are there circumstances where it is more desirable to have wind-directional buffers than others? The spray drift buffers in the table below apply to all sides of a field that are adjacent to aquatic habitats and/or conservation areas; however, pending public comment on wind-directional drift buffers, EPA may propose wind-directional buffers. Example language for a wind-directional buffer would be the following:
  - “Do not apply within [X] feet of aquatic habitats (such as, but not limited to, lakes, reservoirs, rivers, permanent streams, wetlands or natural ponds, estuaries, and commercial fish farm ponds) *when the wind is blowing toward the aquatic habitat.*”
  - “Do not apply within [X] feet of any conservation areas (e.g., public lands and parks, Wilderness Areas, National Wildlife Refuges, reserves, conservation easements) *when the wind is blowing toward the conservation area.*”
  - Exemptions for the 10-ft windbreak, applications for conservation purposes, and applications covered by a completed ESA consultation would still apply to wind-directional buffers.
- Should EPA consider reduced distances for spray drift buffers when other drift reduction technology is used (e.g., drift reducing agents/adjuvants)? If so, to what extent do other drift reduction technologies reduce spray drift such that buffer distances can be reduced? Please provide references for supporting data.
- With regard to spray drift buffers for conservation areas, is the list of examples of conservation areas representative of areas to be protected? Do you have suggestions for alternative or additional descriptions?

|   | Description   | Proposed Label Language for Pesticide Products   | Placement on Label                            | Considerations for Proposing Mitigation  | Effects on training and certification efforts | Effects on compliance efforts | Effects on beneficial uses |
|---|---|--|---|--|---|-------------------------------|----------------------------|
|   |   | <b>End Use Products</b>  |   |  |   |                               |                            |
| 1 | <p><b>Application Method Prohibition</b><br/>(e.g., aerial)</p> <p>Note: EPA has regularly proposed and subsequently required this language on labels when it has determined that the risks of aerial applications outweigh</p> | <ul style="list-style-type: none"> <li>• “Do not apply through aerial application”</li> <li>• or</li> <li>• “Do not apply spray via aerial application”</li> </ul> | Restrictions Section Under Directions for Use | Pesticides applied to agricultural crops resulting in high ecological risks from aerial spray drift where there are low benefits to the use of the pesticide via aerial application. |   |                               |                            |

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|    | the benefits.   |  |   |  |  |  |  |
| 2. | <p><b>Spray Drift Management Application Restrictions</b></p> <p>To be considered for products that are applied as liquid with aerial equipment. Note: EPA has regularly required this language on labels consistently over the past several years.</p> | <p><b>“MANDATORY SPRAY DRIFT MANAGEMENT</b></p> <p><b><u>Aerial Applications:</u></b></p> <ul style="list-style-type: none"> <li>• Do not apply during temperature inversions.</li> <li>• Do not release spray at a height greater than 10 ft above the ground or vegetative canopy, unless a greater application height is necessary for pilot safety.</li> <li>• Applicators must select nozzle and pressure that deliver medium or coarser droplets in accordance with American Society of Agricultural &amp; Biological Engineers Standard 641 (ASABE S641). [For 15 mph windspeed restriction]</li> <li>• If the windspeed is 10 miles per hour or less, applicators must use</li> <li>• ½ swath displacement upwind at the downwind edge of the field. When the windspeed is between 11-15 miles per hour, applicators must use ¾ swath displacement upwind at the downwind edge of the field.</li> <li>• [For 10 mph windspeed restriction]</li> <li>• Do not apply when windspeeds exceed 10 miles per hour at the application site.</li> <li>• The boom length must not exceed [EPA to choose 65% or 75%</li> </ul> | <p>Directions for U in a box titled “Mandatory Spray Drift Management” under the heading “Aerial Applications” Placement for these statements should be in general directions for use, before any use-specific directions for use.se,</p> | <p>Pesticides applied to agricultural crops via liquid spray using aerial equipment with ecological risk due to spray drift.</p> |  |  |  |

based on risks and benefits] of the wingspan for airplanes or [EPA to choose 75% or 90% based risks and benefits] of the rotor blade diameter for helicopters.

- OR
- Do not apply when wind speeds exceed 15 mph at the application site. If the windspeed is greater than 10 mph, the boom length must be 65% or less of the wingspan for fixed wing aircraft and 75% or less of the rotor diameter for helicopters. Otherwise, the boom length must be 75% or less of the wingspan for fixed-wing aircraft and 90% or less of the rotor diameter for helicopters.”

|    | Description   | Proposed Label Language for Pesticide Products   | Placement on Label  | Considerations for Proposing Mitigation  |  |  |  |
|----|---|--|---|--|--|--|--|
| 3. | <p><b>Spray Drift Management Application Restrictions</b></p> <p>To be considered for products that are applied as liquid with airblast equipment<br/>           Note: EPA has regularly required this language on labels consistently over the past several years.</p> | <p><b>“MANDATORY SPRAY DRIFT MANAGEMENT</b></p> <p><b><u>Airblast Applications:</u></b></p> <ul style="list-style-type: none"> <li>• Sprays must be directed into the canopy.</li> <li>• Do not apply when wind speeds exceed <b>[10 or 15]</b> miles per hour at the application site. •<br/>               User must turn off outward pointing nozzles at row ends and when spraying outer row.<br/>               Do not apply during temperature inversions.”</li> </ul> | <p>Directions for Use, in a box titled “Mandatory Spray Drift Management” under the heading “Airblast Applications”</p> | <p>Pesticides applied to agricultural crops via liquid spray using airblast equipment with ecological risk due to spray drift.</p> |  |  |  |
| 4. | <p><b>Spray Drift Management Application</b></p>  | <p><b>“MANDATORY SPRAY DRIFT MANAGEMENT</b><br/> <b>Ground Boom Applications:</b></p>  | <p>Directions for Use, in a box titled</p>  | <p>Pesticides applied to agricultural crops via liquid spray using</p>   |  |  |  |

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|-----------|---|--|--|--|--|--|--|
|           | <p><b>Restrictions</b></p> <p>To be considered for products that are applied as liquid with ground boom equipment<br/> Note: OPP EPA has regularly required this language on labels consistently over the past several years.</p> | <ul style="list-style-type: none"> <li>• <b>Do not release spray at a height greater than [typically 2-3 ft] feet above the ground or crop canopy.</b></li> <li>• <b>Applicators must select nozzle</b></li> <li>• <b>and pressure that deliver medium</b></li> <li>• <b>or courser droplets in accordance</b></li> <li>• <b>with American Society of Agricultural &amp; Biological Engineers Standard 572 (ASABE S572).</b></li> <li>• <b>Do not apply when wind speeds exceed [10 or 15] mph at the application site.</b></li> <li>• <b>Do not apply during temperature inversions.”•</b></li> </ul> | <p>“Mandatory Spray Drift Management” under the heading “Ground Boom Applications”</p> | <p>ground boom equipment with ecological risk due to spray drift.</p>                                  |  |  |  |
| <p>5.</p> | <p><b>Spray Drift Buffer to Aquatic Habitats</b></p> <p>To be considered for products that are applied as liquid with aerial (except Ultra Low Volume/ULV applications for mosquitocides), groundboom, or airblast equipment</p>  | <p>Aerial (non-ULV):</p> <p>“Do not apply within [typically 50-150] feet of aquatic habitats (such as, but not limited to, lakes, reservoirs, rivers, permanent streams, wetlands or natural ponds, estuaries, and commercial fish farm ponds).</p> <p>Ground: “Do not apply within [typically 15-50] feet of aquatic habitats (such as, but not limited to, lakes, reservoirs, rivers, permanent streams, wetlands or natural ponds, estuaries, and commercial fish farm ponds).</p> <p>When using ahooded spray boom, do not apply within [10-30] feet of these protected areas.”</p>                | <p>Directions for use<br/> – Under the Restriction or Use Restriction Section</p>      | <p>Pesticides applied to agricultural crops via liquid spray with aquatic risk due to spray drift.</p> |  |  |  |

|  | Description | Proposed Label Language for Pesticide Products   | Placement on Label | Considerations for Proposing Mitigation | Effects on training and certification efforts | Effects on compliance efforts | Effects on beneficial uses |
|--|-------------|--|--------------------|---|---|-------------------------------|----------------------------|
|  |             | <b>End Use Products</b>  |                    |   |   |                               |                            |
|  |             | <p>Airblast:</p> <ul style="list-style-type: none"> <li>• “Do not apply within [typically 15-25] feet of aquatic habitats (such as, but not limited to, lakes, reservoirs, rivers, permanent streams, wetlands or natural ponds, estuaries, and commercial fish farm ponds).”</li> </ul> <p>All Application Methods Above:</p> <ul style="list-style-type: none"> <li>• “Applications are exempted from this spray drift buffer requirement when:               <ol style="list-style-type: none"> <li>1) A 10-ft high windbreak is established between the field and the aquatic habitat. For this exemption to apply, the windbreak must have single to multiple rows of trees and shrubs planted linearly between the field and the aquatic habitat in a manner that fully partitions the two areas;</li> </ol> </li> </ul> |                    |   |   |                               |                            |

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|    |  | <p>2) The application is conducted for conservation purposes (e.g., to control invasive species) by federal, state, or local personnel or persons under their direct supervision; or</p> <p>3) The landowner or applicator has completed an ESA section 7 consultation with U.S. Fish and Wildlife Service and/or the National Marine Fisheries Service on the use of the product.”</p>  |  |  |  |  |  |  |
| 6. | <p><b>Spray Drift Buffer to Wildlife Conservation Areas</b></p> <p>For products that are applied as liquid with aerial (except Ultra Low Volume/ULV applications for mosquitocides), groundboom, or airblast equipment</p> | <p>Aerial (non-ULV):</p> <ul style="list-style-type: none"> <li>“Do not apply within [typically 50-150] feet of any conservation areas (e.g., public lands and parks, Wilderness Areas, National Wildlife Refuges, reserves, conservation easements).”<sup>1</sup></li> </ul> <p>Ground:</p> <ul style="list-style-type: none"> <li>“Do not apply within [typically 15-50] feet of any conservation areas (e.g., public lands and parks, Wilderness Areas, National Wildlife Refuges, reserves, conservation easements) unless using a hooded spray boom. When using a hooded spray boom, do not apply within [typically 10-30] feet of these protected areas.”</li> </ul> <p>Airblast:</p> <ul style="list-style-type: none"> <li>“Do not apply within [typically 25-50] feet of any conservation areas (e.g., public lands and parks, Wilderness Areas, National Wildlife Refuges, reserves conservation easements).”</li> </ul> | <p>Directions for use</p> <ul style="list-style-type: none"> <li>– Under the Restriction or Use Restriction Section</li> </ul> | <p>Pesticides applied to agricultural crops via liquid spray with terrestrial risk due to spray drift.</p> |  |  |  |  |

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|  |  | <p>All Application Methods Above:</p> <ul style="list-style-type: none"> <li>•“Applications are exempted from this spray drift buffer requirement when:             <ol style="list-style-type: none"> <li>1)A 10-ft high windbreak is established between the field conservation area. For this exemption to apply, the windbreak must have single to multiple rows of trees and shrubs planted linearly between the field and the aquatic habitat in a manner that fully partitions the two areas;</li> <li>2)The application is conducted by conservation area personnel or persons under their direct supervision; or</li> <li>3)The landowner or applicator has completed a consultation with U.S. Fish and Wildlife Service and/or the National Marine Fisheries Service on the use of the product.”</li> </ol> </li> </ul> |  |  |  |  |  |
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**E. Pesticide-Treated Seed: Proposed Label Language and Considerations for Future Ecological Mitigation**

The table below contains example instructions for seed treatment products currently being included in PIDs for pesticides registered for use in treating seed. In addition, EPA is asking for comments on the following questions:

- Reducing pesticide dust-off: EPA is considering measures to reduce the potential for exposures to insect pollinators from treated seed dust-off. Reducing dust-off from treated seeds reduces the amount of the pesticide that abrades off the seed and that can contact insect pollinators.
- Burying spilled pesticide-treated seed: EPA is considering additional measures to reduce exposures to terrestrial vertebrates from ingestion of treated seed. Such measures could involve ensuring limited access to pesticide-treated seed that has been spilled during loading and planting by requiring a minimum depth for burying treated seeds spilled during loading and planting (such as in row ends). Current labels generally refer to covering or collecting spilled seeds. A 2-foot depth for burying treated seeds appears to be a practical measure.
- Disposing of excess seed after planting: Such measures could include labeling instructions for the grower to contact the registrant for information on appropriate disposal and amended registration terms and conditions to require registrants to create disposal plans and educational materials for growers. A registrant disposal plan could include disposal options and bar or condition certain methods of disposal such as combustion or composting.

|    | Description  | Proposed Label Language for Pesticide Products   | Placement on Label | Effects on training and certification efforts | Effects on compliance efforts | Effects on beneficial uses |
|----|--|--|--------------------|---|-------------------------------|----------------------------|
|    |  | <b>End Use Products</b>  |                    |   |                               |                            |
| 1. | <b>Seed Treatment Dye Statement</b>  | <p><b>“REQUIRED DYE STATEMENT</b></p> <p>Seed treated with this product must be visually identifiable from untreated seed by the use of an approved colorant or dye to prevent accidental use of treated seed as food for humans or feed for animals. Refer to 21 CFR, Part 2.25. Any colorant or dye added to treated seed must be cleared for use in accordance with 40 CFR, Part 153.155(c).”</p>   | Directions for Use |   |                               |                            |
| 2. | <b>Seed Treatment For products allowed for on-farm seed treatment (not for distribution or sale of the seed)</b> | <p><b>“Use of On-Farm Treated Seed (when treated seeds are not for sale or distribution)</b></p> <ul style="list-style-type: none"> <li>• Store treated seed away from food and feedstuffs.</li> <li>• Do not allow children, pets, or livestock to have access to treated seeds.</li> <li>• Plant treated seed into the soil at no less than [INSERT RECOMMENDED OR REQUIRED MINIMUM DEPTH].</li> </ul> <p>Ensure that all planted seeds are thoroughly incorporated by the planter during planting. Additional incorporation may be required to thoroughly cover exposed seeds.</p> <ul style="list-style-type: none"> <li>• Treated seeds exposed on the soil surface may be hazardous to wildlife. Cover or collect treated seeds spilled during loading and planting (such as in row ends).</li> <li>• Dispose of all excess treated seed by burying seed away from bodies of water.</li> <li>• Do not contaminate bodies of water when disposing of equipment wash water.”</li> </ul> <p>[Note to registrant: All other requirements regarding the use of the treated seed, which include, but are not limited to, instructions relating to endangered species protection, environmental hazard statements, maximum use rates, soil incorporation depth, plant back intervals, personal protective equipment, and storage and disposal statements, remain and must be listed.]</p> | Directions for Use |   |                               |                            |

|           |  |  |  |  |  |  |
|-----------|--|--|--|--|--|--|
| <p>3.</p> | <p><b>Seed Treatment Seed Bag/Container Labeling For products allowed for commercial seed treatment and on-farm seed treatment (to appear on seed bag tags when treated seeds are to be sold or distributed)</b></p> | <p>“Commercial Seed Treatment and On-Farm Seed Treatment (when treated seeds are to be sold or distributed) – Seed Bag Labeling Requirements”</p> <p>“The Federal Seed Act requires that bags containing treated seeds shall be labeled with the following statements:</p> <ul style="list-style-type: none"> <li>• This seed has been treated with (insert name of active ingredient of pesticide).</li> <li>• Do not use for food, feed, or oil purposes.”</li> </ul> <p>“The U.S. Environmental Protection Agency requires that bags containing treated seeds shall be labeled with the following statements. Any seed treated with [PRODUCT NAME] that is sold or distributed without these statements is an unregistered pesticide, in violation of FIFRA section 12.</p> <p>This seed has been treated with [INSERT PRODUCT NAME(s) (EPA REG. NO(s))] containing [INSERT NAME(S) OF ACTIVE INGREDIENT(S)].</p> <ul style="list-style-type: none"> <li>• The contents of this bag are for planting purposes only. Do not use for food, feed, or oil purposes.</li> <li>• Store treated seed away from food and feedstuffs.</li> <li>• Do not allow children, pets, or livestock to have access to treated seeds.</li> <li>• Plant treated seed into the soil at no less than [INSERT RECOMMENDED OR REQUIRED MINIMUM DEPTH].</li> </ul> <p>Ensure that all planted seeds are thoroughly incorporated by the planter during planting. Additional incorporation may be required to thoroughly cover exposed seeds.</p> <ul style="list-style-type: none"> <li>• Treated seeds exposed on the soil surface may be hazardous to wildlife. Cover or collect treated seeds spilled during loading and planting (such as in row ends).</li> <li>• Dispose of all excess treated seed by burying seed away from bodies of water.</li> <li>• Do not contaminate bodies of water when disposing of equipment wash water.</li> <li>• Dispose of seed packaging or containers in accordance with local requirements.”</li> </ul> <p>[Note to registrant: All other requirements regarding the use of the treated seed, which include, but are not limited to, instructions relating to endangered species protection, environmental hazard statements, maximum use rates, soil incorporation depth, plant back intervals, personal protective equipment, and storage and disposal statements, remain and must be listed on the seed bag tag.]</p> |  |  |  |  |
|-----------|--|--|--|--|--|--|

**F. Promoting Pollinator Stewardship: Proposed Advisory Language**

EPA is proposing to include revised advisory language for insect pollinators in its FIFRA actions. The pollinator hazard statement below would apply when there is acute risk to insect pollinators from agricultural crop uses of the pesticide. The Agency is proposing a statement outlining best management practices for pollinator protection. EPA intends to propose this statement when the ecological risk assessment identifies acute or chronic risk to insect pollinators from agricultural crop uses of the pesticide. EPA seeks feedback on the example label language in the table below.

|    | Description   | Proposed Label Language for Pesticide Products  | Placement on Label  | Considerations for Proposing Language  | Effects on training and certification efforts | Effects on compliance efforts | Effects on beneficial uses |
|----|---|---|---|--|---|-------------------------------|----------------------------|
|    |   | <b>End Use Products</b>   |   |  |   |                               |                            |
| 1. | <p><b>Pollinator Hazard Statement</b><br/>For all products applied to agricultural crops.</p> | <p><b>[EPA to choose either statement depending on whether the pesticide displays residual toxicity:</b></p> <p><b>Extended residual toxicity not displayed:]</b></p> <p>“This product is [highly/moderately] toxic to bees and other pollinating insects exposed to direct treatment on blooming crops or weeds.”</p> <p><b>[Extended residual toxicity displayed:]</b></p> <p>“This product is [highly/moderately] toxic to bees and other pollinating insects exposed to direct treatment or to residues in/on blooming crops or weeds.”</p> | Environmental Hazards under the Heading “Pollinator Hazard Statement” | Pesticides applied to agricultural crops when there is acute risk to insect pollinators. |   |                               |                            |

|    |   |  |  |   |  |  |  |
|----|---|--|--|---|--|--|--|
| 2. | <p>Best Management Practices for Pollinator Protection</p> <p>For all products delivered via liquid spray applications to agricultural crops.</p> | <p><b>“Best Management Practices for Pollinator Protection</b></p> <p><b>Following best management practices (BMPs) can help reduce risk to pollinators. To protect wild and managed pollinators, the following BMPs should be implemented:</b></p> <ul style="list-style-type: none"> <li>• <b>Develop and maintain clear communication with local beekeepers to help protect honey bees. To the extent possible, advise beekeepers within a 1-mile radius 48-hrs in advance of the application, and confirm hive locations before spraying.</b></li> <li>• <b>Avoid applications when bees are actively foraging.</b></li> <li>• <b>Apply pesticides in the evening and at night when fewer pollinators are foraging.</b></li> <li>• <b>Use Pollinator Protection Plans when they are available. These plans are developed by stakeholders within their respective states/tribes to promote communication between growers, landowners, farmers, beekeepers, pesticide users, and other pest management professionals to reduce exposure of bees and other pollinators to pesticides.</b></li> <li>• <b>Report suspected pollinator pesticide poisonings via EPA’s Pesticide Incident Reporting website:</b></li> </ul> <p><b><a href="https://www.epa.gov/pesticide-incidents">https://www.epa.gov/pesticide-incidents</a>.</b></p> <p><b>For additional resources on pollinator BMPs and Pollinator Protection Plans, visit <a href="https://www.epa.gov/pollinator-protection/tools-and-strategies-pollinator-protection">https://www.epa.gov/pollinator-protection/tools-and-strategies-pollinator-protection</a>.”</b></p> | <p>Directions for Use – Under the Best Management Practices header after Resistance Management section</p> | <p>Pesticides applied to agricultural crops via liquid spray when there is acute or chronic risk to insect pollinators.</p> |  |  |  |
|----|---|--|--|---|--|--|--|

**G. Ecological Incident Reporting Label Language**

- EPA expects to regularly propose language for pesticide labels that would provide product users with consistent guidance on how to report ecological incidents, including bee kills. EPA has proposed and subsequently required ecological incident reporting language on some labels in the past, and ecological incident reporting has been included as a reasonable and prudent measure in biological opinions issued by the Services that EPA is required to implement. EPA seeks feedback on the example label language in the table below. Additionally, EPA is requesting specific feedback on the following question:

Are users or other people having any issues reporting bee or other ecological incidents to EPA?

|    | Description  | Proposed Label Language for Pesticide Products  | Placement on Label   | Criteria for Proposing Mitigation | Effects on training and certification efforts | Effects on compliance efforts | Effects on beneficial uses |
|----|--|---|--|-----------------------------------|---|-------------------------------|----------------------------|
|    |  | <b>End Use Products</b>   |  |                                   |   |                               |                            |
| 1. | <b>Ecological Incidents Statement</b><br>To be proposed for all products with outdoor uses | <b>“REPORTING ECOLOGICAL INCIDENTS:</b> For guidance on reporting ecological incidents, including bee kills, see EPA’s Pesticide Incident Reporting website:<br><a href="https://www.epa.gov/pesticide-incidents">https://www.epa.gov/pesticide-incidents</a> ” | Directions for Use, under the heading “Reporting Ecological Incidents” | All products with outdoor uses    |   |                               |                            |