

October 22, 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 (EPA-HQ-OPP-2023-0365)**

Dear Ms. Matuszko,

Thank you for the opportunity to provide comments on the 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 (EPA-HQ-OPP-2023-0365) (hereafter “herbicide strategy”). The National Association of Wheat Growers (NAWG) is a federation of 20 state wheat grower associations and industry partners that works to represent the needs and interests of wheat producers before Congress and federal agencies. Based in Washington, D.C., NAWG is grower-governed and works in areas as diverse as federal farm policy, trade, environmental regulation, agricultural research, and sustainability. We have worked quickly to gather input on the draft framework and its effect on our growers. NAWG believes that it is critical for us to comment now to ensure the EPA finalizes a framework that fulfills the agency’s obligations under the ESA and does not jeopardize our growers’ livelihoods and farming operations.

NAWG has serious concerns about the various restrictions contained within the herbicide strategy, which are being proposed within the lower 48 states and would limit the ability of growers to manage weeds on their farming operations. The herbicide strategy raises questions of concern for wheat growers. The framework seems rushed and hastily compiled. While we understand the pressure the EPA is under to uphold their ESA requirements, it is vital in any final rule that farmers continue to have access to herbicides, which allows growers to control weeds sustainably. NAWG understands that this strategy seeks to help the EPA reach its ESA requirements. The volume and magnitude of the herbicide strategy is a lengthy document that can be hard for growers to decipher and digest. However, as the EPA reviews feedback from farmers and the agricultural industry, that input and the impracticalities posed in the draft rule needs to be reevaluated as they pose a severe threat to their livelihood.

NAWG stresses that the herbicide strategy has the potential to create a significant economic impact on wheat growers and creates a level of uncertainty for growers in the impacted regions. The limitation of pesticide application would only increase the influx of noxious weeds. These weeds have immense environmental and economic impact. Each year, weeds cause nearly \$120 billion worth of damage across the agricultural sector, and the restriction of herbicides application would

only amplify the problem. Herbicides play an important role in wheat production as they help maintain conservation practices that protect the soil from wind erosion and maintain soil health. USDA's most recent Agriculture Census reports that conservation tillage practices were used by wheat growers on 67% of wheat acres in 2017, up from under 40% in 2004. Control of weeds also suppresses the spread of viruses affecting wheat, which helps to maintain the quality and yield of wheat produced. This underscores the point that herbicides play a vital role in resource and weed management. Furthermore, the EPA needs to consider growers' ability and willingness to work with conservation partners. Growers have a history of working with the Natural Resources Conservation Service and conservation districts, and rely on technical assistance, financial assistance, and guidance they provide growers as they implement conservation practices. Working with these various services should be considered as a form of exemption. The EPA should consider offering exemptions to growers who have previously utilized conservation programs and continue maintaining conservation practices.

NAWG believes the herbicide strategy restrictions and regulations are too extreme for growers and producers. The herbicide strategy aims to minimize herbicides' ecological impacts on endangered species and their habitats. The primary goal is to minimize erosion/runoff and spray drift risks that agricultural herbicides may cause. The herbicide strategy contains two types of restriction levels (general labeling and Pesticide Use Limitation Area (PULA)). These mitigations vary in level of restriction and can be extremely limiting. While the strategy attempts to provide some flexibility by allowing producers to utilize mitigation practices in their operations, the proposed mitigation practices do raise concerns for growers.

The EPA has posted a menu of different mitigation options with the herbicide strategy. These mitigation options directly correlate with the strategy's efficacy point system. The efficacy point system on general labels requires growers to gain points by implementing certain conservation practices. However, some of the conservation practices presented to the agriculture community are extremely convoluted, economically infeasible, and for dryland producers they are impractical to implement. With production costs already at increasingly high levels, implementing and maintaining these mitigation practices would cause economic turmoil for many producers. NAWG has received feedback from our growers about the installation and management costs associated with these conservation practices. Not only are there initial costs to adopt new practices, but the time and economic burden to maintain these practices are also a significant concern for NAWG. Furthermore, growers in dryland regions are limited in the number of mitigation practices they can use on their operation. The EPA needs to recognize the barriers dryland farmers face in incorporating additional conservation mitigation practices and the impractical burden the existing draft herbicide strategy currently puts on these producers. Wheat growers operate in many different climates and environmental regions, and the more arid areas are limited in what practices will work on their operations. In dryland wheat areas, the herbicide strategy only provides 4 to 5 different methods for point accumulation in contour farming areas with limited moisture availability. This constraint on mitigation practices limits growers' ability to meet medium to high mitigation standards proposed by the EPA. Limited mitigation options while operating in a dryland climate creates pressure on growers and limits their productivity with their limited resources.

The point system associated with the mitigation practices could require producers to tally up at least six points to comply with general label restrictions established by the herbicide strategy. The

EPA highlighted that exemptions are possible for fields under extensive site-specific erosion/runoff reduction conservation plans or applications and are made at 1,000 feet from any potential aquatic or terrestrial habitat. Nonetheless, with every form of pesticide having some type of general labeling restriction, this would require utilizing some form of conservation practices to gain enough efficacy points for proper application and handling. Furthermore, the proposed conservation practices are convoluted and confusing. Wheat is a crop that is grown in a wide array of climates. The climate wheat grows in varies, and the conservation practices proposed by the herbicide strategy would not work on drylands where wheat is produced. Growers required to utilize these mitigation practices might need technical assistance understanding and complying with the conservation practices the herbicide strategy is proposing. Many of these mitigation practices are new to a large percentage of growers, so extensive training and educational sources must be considered if the herbicide strategy is implemented in its current form.

NAWG is also concerned with the PULA regions. This is a portion of the herbicide strategy that would require extensive pesticide conservation practices and mitigation tools. In some cases, the use of pesticides would be completely prohibited under PULA restrictions. This could have devastating impacts on growers and their crops, farming operations, land values, and livelihoods within the PULA regions. The PULA regions have been divided into 4 different subareas based on whether the plant in question is a monocot or dicot, and the ecological landscape of the region (terrestrial, wetland, or aquatic.) The PULA's that the herbicide strategy proposes are extremely restrictive on growers' ability to produce. The impact that PULA's have on farming operations are incredibly significant. Tight restriction and complete limitation on herbicide application makes PULA regions one of the most susceptible to decreased farm output. In some cases, wheat growers will not be able to utilize herbicides in their fields, which will have significant effects on their crop yield. This significant impact would not allow farmers to maintain a viable farming operation. PULA's have the largest impact on farmers, and the EPA must rework the herbicide strategy to formulate a framework that growers can comply with.

The herbicide strategy mitigation options provided for PULA regions are also incredibly extensive and economically inefficient. For certain herbicide applications, growers would have to accumulate up to nine efficacy points, and with current mitigation options, this would not be economically reasonable to put on a producer's sole responsibility. The herbicide strategy proposes that growers must implement downwind spray drift buffers up to 200 feet from habitat for on-ground application, while aerial application requires up to 500 feet of buffer space. The four PULA's showcased different regions throughout the United States. However, their impact on the wheat industry could play a negative role in the future of production. Combined, PULA's affects nearly 20% of all acres in the United States that is suitable for wheat production – or nearly 20.8 million acres.

The recommended herbicide strategy and the proposed mitigation practices need to be revised to take U.S. wheat production and dryland operations into consideration. With wheat growers spanning all throughout the United States, we suggest that EPA take into consideration the different production regions and roles that herbicides play in wheat production. NAWG wants to ensure that growers are not effectively restricted from producing wheat due to the herbicide strategy and still have the ability to utilize crop protection tools. The listed ESA species habitat range is broad and needs further research to better pinpoint the exact region of a given species. The habitat

descriptions for each species are not sufficient for growers to identify the exact habitat for their operation and the range of the species. This recommendation could provide a clearer species habitat range, which would lead to a more refined herbicide strategy.

Additionally, NAWG wants to ensure that growers can utilize crop protection tools. Without the use of herbicides, what form of crop protection alternatives does the EPA recommend ensuring crop production viability? The EPA has stated that the mitigation practices proposed would provide varied flexibility to producers; however, NAWG is concerned with the mitigation practices and how they will be implemented in an economically efficient manner. Furthermore, the mitigation practices offered could be somewhat difficult for growers to digest. The EPA needs to facilitate some form of training for farmers. This training should be hands-on and provide growers with the right knowledge to ensure compliance with herbicide strategy regulations. We encourage EPA to continue to work with stakeholders on training or education programs.

Risk reduction training or educational programs should be considered as a mitigation measure. Education is a risk-reduction opportunity that is not contingent on geography, crop type, or other limiting factors and could help many operations close compliance gaps while having a protective effect on listed species and habitats.

Lastly, NAWG stresses the importance of further research on the implementation and outlook of the herbicide strategy and its effect on growers. Additional assistance and rework are required to establish an herbicide strategy that will comply with ESA regulations but ensure production longevity for American agriculture. The changes the EPA and herbicide strategy are proposing could have a significant impact on wheat growers and carry a multitude of liability and risks for farmers and their operations. EPA must ensure that the herbicide strategy is clear and reasonable for growers and does not leave wheat producers constricted by the multitude of regulations the framework proposes.

NAWG appreciates the modifications the EPA has made in regard to the ESA. Steps such as the introduction of the predictive Jeopardy / Adverse Modification analysis are important advancements. However, other overly conservative policies and assumptions result in infeasible adjustments and barriers for producers with no significant environmental benefit for listed species. While the Agency traditionally relies upon early mitigation measures in ESA processes, product-specific risk assessments that confirm less stringent mitigation measures should be considered. It is crucial to take toxicity and exposure levels into account to confirm proposed mitigations are necessary for species protection while also accounting for agricultural viability. As the agency moves forward in the registration process, it is imperative that the EPA take these concerns into account and correctly identify mitigation severity early in the process while remaining open to adjustments in the future.

Thank you,



Brent Cheyne

President

National Association of Wheat Growers