

February 14, 2023

Dr. Mary Elissa Reaves
Director
Pesticide Re-evaluation Division
Office of Pesticide Programs
Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460-0001

Re: Comments on Appendix to the ESA Workplan Update: Nontarget Species Mitigation for Registration Review and Other FIFRA Actions (“Appendix”); Docket No. EPA-HQ-OPP-2022-0908

Dear Dr. Reaves:

The American Seed Trade Association (ASTA) appreciates the opportunity to provide comment to the U.S. Environmental Protection Agency (EPA or Agency) on the Appendix to EPA’s Endangered Species Act Workplan Update. Founded in 1883, ASTA is one of the oldest trade organizations in the U.S. Its membership consists of over 700 companies involved in seed production and distribution, plant breeding, and related industries in North America. ASTA members research, develop, produce, and distribute all varieties of seeds—including grasses, forages, flowers, vegetables, row crops, and cereals—representing companies that distribute over 85% of the seed in the United States. ASTA’s members invest millions of dollars annually in the research, development, and production of new seed products to help make American agriculture more productive, efficient, and sustainable.

ASTA appreciates the significant work EPA has undertaken to balance wildlife protection with ensuring that farmers and other pesticide users have the tools they need to manage pests and that developers of seeds and pesticide products have regulatory certainty. A substantial portion of the seeds ASTA’s members sell each year are treated with pesticide products—registered with EPA for that use—to provide a precise and calibrated application of pesticides that protect seed in its most vulnerable stage after planting.

Since their introduction in the early- to mid-1990s, seed treatment pesticides have been rapidly adopted by growers as a means of insuring their investments in high-value seeds: Seed treatments shield the seeds from harmful early-season insects, pests, and diseases, and help produce higher quality crops and increased yields. The increased yields that result from the use of seeds treated with pesticide products reduce the cost and environmental impact of agriculture—by lessening acreage necessary to achieve yields, reducing the need for rescue treatments, minimizing replanting of a failed crop, diminishing potential soil surface exposure, and decreasing the number of spray applications of agricultural products, which reduces possible exposure to non-target species—thereby benefiting both consumers and the environment. ASTA therefore focuses its comments on the “additional or changed instructions” for seed treatment product labels that EPA has proposed in Appendix Section 6 “as options for reducing potential exposures to terrestrial vertebrates and invertebrates associated with treated seed uses.” Refer to Appendix page 46.

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Regarding reducing pesticide dust-off, EPA is already aware of efforts among the Agency, pesticide registrants and seed developers, equipment manufacturers, and other participants in the agricultural value chain to promote the development and use of new seed-planting technologies aimed at reducing nontarget organisms' exposure to dust from treated seed. As the Agency has acknowledged, these include technologies for cleaning and de-dusting treated seed, enhancements in polymer coatings and other seed-flow lubricants, each aimed at minimizing dust-off; work with equipment manufacturers to ensure fluency agents' efficacy in planting equipment; and development of an ISO standard for sowing equipment to minimize exhaust from pneumatic planting systems.

In addition to technology developments, ASTA in collaboration with CropLife America has developed and periodically updates a highly regarded, comprehensive seed treatment stewardship guide, based on research and safety information from a variety of industry sources, that includes best practices for seed treatment, including seed handling, dust reduction, use of fluency agents, aimed at reducing risks to nontarget organisms. See ASTA & CropLife America, "The Guide to Seed Treatment Stewardship: Handling, Planting and Disposal of Treated Seed," available at <https://seed-treatment-guide.com/> (updated version to be available April 1, 2023).

Given the rapid development, adoption, and consistent use of these technologies and stewardship practices, ASTA asks that EPA avoid taking any regulatory action that would unnecessarily complicate the regulatory process for developers and/or impose burdens on growers without a scientific justification.

On pages 48-49, in the table with the Agency's proposed label language for pesticide products, EPA proposes to require that the product name and associated EPA registration number be included on the seed bag label. However, adding the seed treatment product name and the active ingredient name to the seed bag or container label would not add pertinent information and would be confusing to the grower, including by suggesting that two products are being used. Moreover, information and resources regarding seed treatment products are already readily accessible using publicly-available databases for active ingredients and EPA registration numbers.

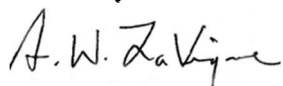
The Agency's workplan update also identifies additional measures "to reduce exposures to terrestrial vertebrates from ingestion of treated seed," including requirements to bury treated seeds spilled during loading and planting and disposing of excess seed after planting. As an initial matter, and in response to the Agency's concerns regarding excess seed, ASTA notes that seeds are high-value agricultural inputs comprising a significant portion of a farmer's planting costs. The high cost of seed necessarily imposes an incentive on growers and retailers to purchase the correct amount of seed, to minimize the purchase of excess seed, and to plant rather than dispose of excess seed. In addition, full bags of leftover seed can often be returned by growers to the retailer for a credit, and would therefore not be addressed on-farm. ASTA asks that EPA carefully consider these practical factors before imposing additional regulatory burdens on growers.

ASTA further notes that burying spilled seed, as opposed to the current practice of covering or collecting, would also impose additional burdens on growers and asks that EPA ensure that any additional burdens scientifically justified. Moreover, to the extent the Agency identifies an appropriate justification to require burying rather than covering or collecting seeds, the burial depth requirement

should be as minimally burdensome as possible. ASTA also notes that the regulation at 7 C.F.R. § 301.89-12, cited by EPA as a basis for burying seeds at 2', was imposed by USDA under its plant pest authority to contain seeds treated for infection with a fungal pathogen in wheat capable of causing trade disruptions for U.S. wheat producers. Given that EPA has through the pesticide registration process already assessed effects on humans and the environment associated with use of the pesticide as a seed treatment, USDA's approach to karnal bunt-infected seed is an inappropriate corollary.

ASTA appreciates the Agency's ongoing work to harmonize its obligations under the Endangered Species Act with its obligations under FIFRA to provide farmers access to the tools they need to produce food and fiber for the United States and the world. We look forward to continuing to work with you on these issues, which are of crucial interest to ASTA and its members.

Sincerely,

A handwritten signature in black ink that reads "A. W. LaVigne". The signature is written in a cursive style with a large, stylized initial "A".

Andrew W. LaVigne
President & CEO