



September 23, 2024

Mr. 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

Submitted electronically via www.regulations.gov

RE: Draft Insecticide Strategy to Reduce Exposure of Federally Listed Endangered and Threatened Species and Designated Critical Habitats from the Use of Conventional Agricultural Insecticides (EPA-HQ-OPP-2024-0299)

Dear Deputy Assistant Administrator Li:

The National Barley Growers Association (NBGA) writes to submit comments regarding the Draft Insecticide Strategy to Reduce Exposure of Federally Listed Endangered and Threatened Species and Designated Critical Habitats from the Use of Conventional Agricultural Insecticides.

NBGA is a non-profit commodity organization that works to promote the interests of U.S. barley producers. NBGA appreciates the opportunity to offer comments regarding the draft Insecticide Strategy. Insecticides are essential for protecting U.S. agricultural operations. Without access to insecticides and the ability to use them, insect pests can quickly destroy an entire crop. Insecticides are also needed to maintain some conservation practices, such as cover crops, which can harbor insect pests. Many of our concerns echo those we previously raised about the Herbicide Strategy Framework.

While the NBGA acknowledges the EPA's efforts to address concerns and consider adjustments during previous comment periods on proposals related to endangered and threatened species, the draft Insecticide Strategy does not provide the flexibility farmers need to make quick decisions regarding their crops and to save potential yields suffering from pests. There are concerns about the restrictive and narrowly defined nature of the framework. Although the current framework allows farmers to earn mitigation points and recognizes the varying risk of runoff by region, it does not offer the level of flexibility and control that farmers require to protect their yields. This lack of flexibility could lead to higher costs for both producers and consumers.

Consumers depend on farmers to meet demand and maintain a steady and affordable supply of food. Farmers at times need to use insecticides to prevent significant loss of crops. Excessive restrictions on pesticide use, including insecticides, could have unintended consequences for harvests and, ultimately, food security. Farmers have a strong incentive not to overuse insecticide as the high costs associated with these products already drive them to minimize use and

maximize efficiency. Farmers are aware of the needs of each crop and employ technologies such as GPS to avoid overapplication and unnecessary use of chemicals. The new regulations fail to acknowledge the ongoing efforts already being made by farmers nationwide to reduce chemical usage by eliminating unnecessary application.

The NBGA urges the EPA to include guidelines for how new practices and technologies could prompt adjustments to these regulations over time. This would help ensure that regulations remain adaptable, allowing for open dialogue and the modification or reduction of mitigation measures as new practices become available. While the current insecticide framework does acknowledge the need and intention to continuously review and update these measures there is no plan proposed for how the EPA would assess this nor how often they would consider reviewing these regulations. Additionally, as new technology advances, it would be beneficial to narrow the relief points to more specific areas or zones.

The draft Insecticide Strategy emphasizes the need for practical implementation measures, technological advancements, and additional resources to support farmers. However, there are concerns about the feasibility and rollout of these components. Without clear guidance on how these tools and resources will be implemented, the strategy will lead to confusion or difficulties in applying the new criteria. The EPA has indicated that it could take a decade to address their ESA workload and update all pesticide risk assessments. Given that the rollout of these strategies is expected over the next several years, there are concerns about the ability to effectively implement the proposed elements.

Complexity, Practicality and Cost of Implementation

The NBGA is concerned that the mitigation measures required for PULAs are overly complex and may not be practical given current agricultural practices. The proposed strategy requires farmers to account for numerous factors, some of which may change up to the time of application. These factors include whether you are in a Pesticide Use Limitation Area (PULA), the potential for runoff, field characteristics, distance from unmanaged lands, and weather conditions. Not only do these considerations demand significant time, but they also need to be applied to each field a farmer manages.

The regulations outlined in the draft Insecticide Strategy would require farmers to calculate mitigation points and evaluate each individual field to determine the allowable amount for application for the respective area. This process could be cumbersome and impractical for farmers. For example, a farm divided into 100 fields would require the farmer to evaluate each field, determine the number of mitigation points needed each year, assess existing mitigation measures, and implement any additional measures required to meet the points needed for each insecticide application. This imposes a time-consuming burden on farmers and could also present additional financial cost due to the need for additional labor or mitigation measures. These complexities could make it difficult for many operations, especially smaller producers with limited resources, to continue using insecticides.

EPA indicated their intention to create a calculator to help growers “determine what mitigation relief measures apply to them and their associated points, what mitigations they already have in place and their associated points, and what further actions they may need to take to meet the total required points.” However, no information on the calculator has been provided at this time.

We are concerned with the ability for product labels to clearly identify requirements and help farmers determine if additional mitigation measures are needed. Companies will need to implement cohesive and easily understandable labels. Currently, no guidelines have been provided on exactly how companies should redesign their labels. Clear and straightforward labeling could help prevent confusion among farmers who use multiple pesticides.

Additionally, farmers often cannot precisely predict the insecticides and pesticides needed for a given growing season. The new regulation requires farmers to anticipate all potential scenarios and ensure they have enough mitigation points to cover any potential situation, regardless of its likelihood. This also raises the question of what farmers should do if they lack the necessary points and an unforeseen invasive species attacks their crops. As currently written, the regulations would not permit farmers to take immediate action against an invasive species without possessing enough mitigation points, regardless of its unexpected nature. Farmers frequently need to make swift and decisive decisions to protect their crops from damage. However, the restrictive nature of this program could prove costly for many farmers who cannot respond promptly to pests as needed.

Another challenge is the cost and feasibility of many of the mitigations provided in the draft Insecticide Strategy. While there are more compliance options compared with previous proposals, such as the draft Herbicide Strategy, many of the options presented will still create agronomical, economic, or pest management difficulties. For example, many of the runoff, erosion, or spray drift mitigations provided (riparian areas, filter strips, etc.) will require physical modifications to fields that are very costly to install and maintain. Many may be prohibited by land rental contracts as well, further limiting options for millions of farmland acres.

While the NBGA appreciates the EPA's efforts to increase opportunities for mitigation points, there are concerns that many of the options remain unachievable for some farmers. For instance, offering more cover cropping options does not benefit farmers who are unable to implement cover crops on their fields. Growers need a broader range of mitigation options that do not impose unnecessary restrictions or financial burdens. Instead of further defining the existing measures, offering alternative options would help alleviate the burden on farmers who may struggle to implement the current measures.

The NBGA encourages the EPA to continue defining additional areas for farmers to receive mitigation points to accommodate various farm types and regions. We encourage you to continue refining the Insecticide Strategy to ensure that farmers can earn points without facing unnecessary financial burdens or compromising their yields. Additionally, providing farmers with more flexibility to make timely decisions and offering clearer guidance on the program's elements is needed. EPA should add other options not contingent on geography or crop type, such as risk reduction training courses or drift reduction adjuvants. Additionally, EPA should offer exemption from further runoff/erosion mitigation for farming operations already participating in state or other best management practice plans aimed at reducing runoff and soil erosion.

While we support the conservation of wildlife and our environment, we do not believe this complex Insecticide Strategy and the costly restrictions and mitigations it would impose are necessary to meet the needs and goals of the Endangered Species Act.

The draft Insecticide Strategy could impose significant regulatory burdens on U.S. farmers, producers, and applicators, all while exposing agricultural operations, conservation efforts, and rural communities to billions of dollars in damage from insect pests. We urge EPA to reconsider its approach by reducing its complexity, adding greater flexibility for compliance, and refining how the Agency determines risks to species.

The NBGA encourages the EPA to continue defining additional areas for farmers to receive mitigation points to accommodate various farm types and regions, ensure that farmers can earn points without facing unnecessary financial burdens or compromising their yields, provide other options not contingent on geography or crop type, such as risk reduction training courses or drift reduction adjuvants, and offer exemption from further runoff/erosion mitigation for farming operations already participating in state or other best management practice plans aimed at reducing runoff and soil erosion.

Sincerely,

A handwritten signature in cursive script that reads "Chris Engelstad". The signature is written in dark ink on a light-colored background.

Chris Engelstad
President
National Barley Growers Association