



***U.S. Canola Association
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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

Submitted via regulations.gov

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

Dear Ms. Biscoe:

The US Canola Association (USCA) writes to submit comments regarding the Endangered Species Act (ESA) Workplan Update: Nontarget Species Mitigation for Registration Review and Other FIFRA Actions. The USCA is a non-profit commodity organization whose mission is to increase domestic canola production to meet a growing demand for healthy oil. Since USCA's establishment in 1989, the Association has facilitated the growth of domestic canola acreage from zero to over 2 million acres in 2022.

USCA appreciates the opportunity to offer comments regarding the ESA workplan. For numerous years, EPA has faced many challenges as the Agency implemented pesticide regulations as required by the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) while simultaneously trying to meet its ESA obligations, most recently including ESA requirements into the review process for registering pesticides. USCA hopes the comments our Association provides will help EPA ensure the ESA Workplan finally fulfills the Agency's ESA obligations.

The ESA Workplan Update is quite complex. As significant as these new regulations will be, USCA respectfully requests an extension of at least 60 days to the comment period. USCA appreciates the additional 15 days to February 14, 2023 for comments that was already extended beyond the original January 30, 2023 deadline, but we believe more time is needed to provide meaningful comments on the many aspects of the workplan.

In the interim, USCA offers the following general observations regarding the Appendix.

The link to Bulletins Live! Two (BLT) is prominently displayed near the top in a box on the <https://www.epa.gov/endangered-species> webpage. This should continue to be the case so that it can be easily found. The language on how to obtain Bulletins through BLT is understandable and the 6 months provided in obtaining the Bulletins should allow sufficient time to plan for field operations.

To further aid farmers and applicators in obtaining Bulletins, BLT should also provide a link to a resource listing all pesticides (active ingredients) registered for use on a crop by state. The list should include all brand name(s) that contain the registered active ingredient, and the registration #s. Producers may grow numerous crops in rotation with each other, all of which have numerous crop protection products registered for use. Providing easy access to the registration #s of the potential products they may use in a year is essential in helping BLT to be as user friendly as possible.

Currently, obtaining the Bulletin via a smartphone is problematic. In the instances producers and applicators need to obtain Bulletins on short notice, USCA recommends that a smartphone App be developed that will better navigate the features of BLT.

USCA is concerned regarding the addition of Bulletins as an addendum to the pesticide label. Pesticide labels are legally enforceable, and all of them carry the statement: “It is a violation of Federal law to use this product in a manner inconsistent with its labeling.” When Bulletins provided by BLT become part of the label, but not physically on the label, errors in following the label may occur placing farmers and applicators at risk of violating the law. For this reason, it is imperative that specific instructions are included on the physical label attached to the product on how to access BLT to obtain the Bulletins.

Custom applicators provide some or all of the pesticide applications for some farmers. Compliance with BLT label information may become problematic as applicators and farmers may not have the same information. A BLT workgroup should be established by EPA in conjunction with stakeholders to ensure that BLT is user-friendly, accurate and efficient; and end-user training is needed to ensure that seamless compliance is achieved.

USCA is concerned that highly prescriptive language regarding planting depth in the proposed label language for pesticide-treated seed is not practical due to the need for growers to adjust for environmental and field conditions; especially in the case of canola, a small seed crop which sometimes is planted at depths of ½ inch or less. Indeed, under extreme wet conditions in the Northern Plains in recent years, some producers broadcast canola seed followed by incorporation in order to get acreage seeded prior to the final plant date prescribed by the Risk Management Agency. USCA urges that the BLT contain only advisory language for seeding depth rather than prescriptive.

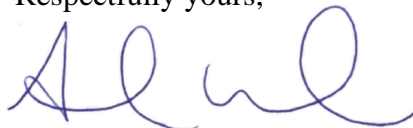
USCA is also concerned about the language dictating that all seed is covered by soil. Implements running furrow or disc openers can encounter rocks in the field during operation, causing them to trip out of the ground possibly leaving seed exposed on the surface. These implements can also plug with trash on occasion which can also leave seed on the surface. GPS technology has been developed that turns the seed flow off at the end of a run before the implement is lifted out of the ground; and then turns the seed flow back on after the implement is put back into the ground when starting the next pass. But it will be several years before all farms have access to this technology.

In addition, requiring incorporation to try and cover any exposed seed could violate contractual agreements farmers may have for no-till/minimum till conservation plans with the Natural Resources Conservation Service. Incorporation would also be contrary to the Runoff and Erosion Mitigations recommended by the BLT. Following Best Management Practices (BMPs) for disposal of excess seed or seed spilled while filling the planter/seeder is supported but dictating that spilled seed be buried 2 feet deep is unworkable and unrealistic. In summary, a zero tolerance for exposed seed is unrealistic and impossible to achieve, especially on the large fields found in many regions of the country.

Regarding the protection of pollinators, canola is an ideal food source for honey bees and other pollinators – the canola plant during its up to four week or longer blooming period produces plentiful pollen that offers a good balance of amino acid and protein that is essential for good bee and pollinator health. The USCA, in cooperation with the Honey Bee Health Coalition, developed [Best Management Practices for Pollinator Protection in Canola Fields](#) to promote and ensure the health of honey bees and other pollinators.

In summary, USCA recognizes and appreciates EPA's role in ensuring that we produce agricultural products safely and responsibly to protect our environment and to comply with the ESA. USCA wants to help with this process to achieve these goals. To that end, we once again urge EPA to extend the comment period on the Appendix to ensure that BLT is designed and implemented in the best way possible to ensure success in complying with the requirements of the ESA.

Respectfully yours,

A handwritten signature in blue ink, appearing to read 'A. Moore', with a stylized flourish at the end.

Andrew Moore
President, US Canola Association