



October 7, 2022

Dr. Elissa Reaves
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Office of Pesticide Programs
Environmental Protection Agency 1201 Constitution Ave.
NW Washington, D.C. 20004

Re: Proposed Revisions to the Atrazine Interim Registration Review Decision EPA-HQ-OPP-2013-0266

The National Association of State Departments of Agriculture (NASDA) submits the following comments on the Proposed Revisions to the Atrazine Interim Registration Review Decision EPA-HQ-OPP-2013-0266.

NASDA represents the commissioners, secretaries, and directors of the state departments of agriculture in all 50 states and 4 U.S. territories. State departments of agriculture are responsible for a wide range of programs, including food safety, combating the spread of disease, and fostering the economic vitality of our rural communities. Conservation and environmental protection are also among our chief responsibilities. In 43 states, the state department of agriculture is a co-regulator with EPA and is responsible for administering, implementing, and enforcing the production, labeling, distribution, sale, use, and disposal of pesticides under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA).

BENEFITS OF ATRAZINE

Crop protection tools are essential in many agricultural crop production systems and public health programs, and FIFRA establishes a rigorous scientific evaluation and review process for these tools. NASDA supports the scientifically-sound development, registration, registration review, and consultation process for pesticide products and uses to enable growers to produce our nation's food, fiber, and fuel, as well as public health agencies to combat the spread of pests and disease. This process must remain free of political interference and fully recognize the benefits pesticides provide to conservation, food security, and, indeed, our national security.

EPA acknowledges that Atrazine, next to glyphosate, is the most critical herbicide used in agriculture. It is used on 75,000,000 acres annually¹ for the postemergence and preemergence control of broadleaf weeds and

¹ Market Research Data, 2013-2017. Data collected on pesticide use for about 60 crops by annual surveys of agricultural users in the continental United States. Survey methodology provides statistically valid results, typically at the state level.

grasses. EPA has likewise documented the critical benefits of Atrazine, stating that it is the preferred herbicide for warm-season grass crops, such as corn, sorghum, and sugarcane, because it is economical, has a flexible use pattern, long residual, crop safety, and is highly effective against a broad spectrum of weeds. EPA has also stated that although other herbicides are available for these crops, these alternatives result in increased herbicide expenditures and possible yield losses due to the lower efficacy of other options, which would substantially increase the impacts on users in the absence of atrazine.

Additionally, growers may incur additional costs if alternatives require equipment upgrades to make directed postemergence sprays due to phytotoxicity concerns. Other non-quantifiable impacts include increased managerial effort, for example additional scouting and weed identification skills to select the correct alternative.

NASDA is concerned that the restrictions on the use of Atrazine outlined in this revised interim decision will significantly increase weed pressure creating the substantial risk that many farmers will be forced to abandon environmentally beneficial practices, including no-till cropping systems in exchange for deep tillage. The potential benefits of no-till are well-documented, from improving soil health to reducing annual fuel and labor investments. With all the administration's efforts to battle climate change, it is difficult to comprehend that the EPA would finalize a rule that knowingly endangers the environment by forcing farmers to backtrack on the adoption of the most significant soil conservation advances of the last century.

PESTICIDE REVIEWS

The registration review of Atrazine has been an ongoing process involving reviews by the FIFRA Scientific Advisory Panel (SAP), opportunities for public comment, and extensive internal review by the career professionals of the agency. Much of this process, as well as the scientific uncertainty and the conclusions of EPA career professionals, were documented in a Memorandum to the File regarding the Regulatory Update on the Registration Review of Atrazine drafted and signed by Richard P. Keigwin, Director Office of Pesticide Programs, Office of Chemical Safety and Pollution Prevention in October, 2019².

EPA's STATED POLICY CONCERNING COMMUNITY EQUIVALENT LEVEL OF CONCERN

Mr. Keigwin, currently the Deputy Assistant Administrator, Office of Chemical Safety and Pollution Prevention, is a 32-year veteran of the career ranks of the EPA. In his memo dated October 22, 2019, he outlines the uncertainty related to the choice of an appropriate community equivalent level of concern (CE-LOC) and concludes as follows:

In response to significant public comments, concerns, and inherent uncertainty related to the data, assumptions, and interpretations used to arrive at the aquatic plant CE-LOC in the 2016 draft atrazine ecological risk assessment, EPA has considered alternate approaches for inclusion, evaluating/scoring, and interpretation of the atrazine ecosystem and related studies. The agency acknowledges that differences in the

² EPA-HQ-OPP-2013-0266-1260

interpretation of effects, scoring methodology, and splitting of functional groups can greatly influence the resulting CE-LOC. There are also sources of uncertainty inherent in the models used to calculate the CE-LOC. Utilizing the cosm scoring and study exclusions recommended by the 2012 SAP and accounting for model sources of uncertainty, the resulting CE-LOC ranges from 1.9 to 26 µg/L with a median of 8.5 µg/L.

Given the complex nature of mesocosm and microcosm studies, the various protocols used in the conduct of these studies, the model uncertainty described in the 2016 risk assessment, the recommendation of the SAP, the potential for recovery of the aquatic plant community following exposure, and the high agricultural benefits provided by atrazine, the Agency considers it appropriate to present a range of concentrations that accounts for these factors for risk management purposes under Registration Review. In view of the range of 1.9 to 26 µg/L [...], the Agency believes it is reasonable to focus on the upper end of the range as recovery is more likely at lower concentrations. For the purposes of determining the need for any potential mitigation to protect aquatic plant communities during Registration Review, EPA will use the concentration of 15 µg/L as a 60-day average, which is at the upper end of the distribution of values

In compliance with this direction from the senior career head of the Office of Pesticide Programs, EPA issued an interim decision for atrazine in September 2020, setting the aquatic ecosystem CE-LOC at 15 parts per billion (ppb). As noted above, this followed a decade of exhaustive scientific and regulatory review. However, on June 30, 2022, the EPA released proposed revisions to the September 2020 interim decision that included new labeling and mitigation requirements. Perhaps the most concerning was the arbitrary decision to ignore prior directives of top career officials and reduce the CE-LOC from 15 ppb to 3.4 ppb. This significant change contradicts the previous overwhelming scientific consensus supporting a CE-LOC of 15 ppb and will have widespread impacts on the use and effectiveness of atrazine products. This is an unacceptable decision that ignores the rigorous scientific evaluation and review process established by FIFRA.

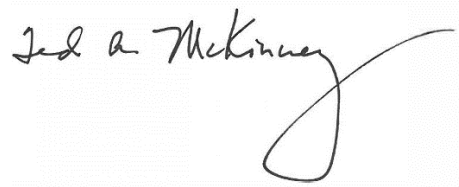
Many commenters, including individual state departments of agriculture, grower organizations, and pesticide registrants, will provide detailed concerns related to the proposed mitigation measures included in the revised interim decision to arbitrarily reduce the CE-LOC from 15ppb to 3.4ppb. NASDA agrees with and supports those comments, including the suggestion of suspending this process until another SAP is convened to review this proposal. Nevertheless, it is the position of NASDA that none of the proposed mitigations would be necessary if the agency were to follow its previous directive concerning a 15ppb CE-LOC, which was fair, principled, and scientifically reasoned.

CONCLUSION

Agriculture has and continues to use conservation practices to benefit the environment, a shared goal of the administration. This proposed rule contradicts our shared goal by removing a scientifically accepted tool for farmers and forcing them to abandon environmentally beneficial practices, including no-till cropping systems, in exchange for deep tillage.

If this decision were unique in the risk it imposes on agricultural production, then our arguments would need to be moderated. Unfortunately, this decision does not stand alone. This is one of many recent actions that threaten American agriculture and our food security, including revoking tolerances for chlorpyrifos; judicial determinations related to glyphosate, ongoing litigation on several other pesticide active ingredients; and the impending final rule on waters of the United States. EPA must consider the cumulative effects of policy decisions and not only recognize but affirmatively defend the reasonable and prudent use of pesticides which are an undeniably essential tool in support of our food security and national security.

Sincerely

A handwritten signature in black ink that reads "Ted A. McKinney". The signature is written in a cursive style with a large, sweeping loop at the end.

Ted McKinney
Chief Executive Officer