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ASA Survey Paints Harsh Reality of ESA Herbicide Strategy on Soy Farmers

Washington, D.C. Feb. 21, 2024. The Environmental Protection Agency has proposed pesticide registration plans to meet its Endangered Species Act obligations that could significantly affect farmers' livelihoods. With U.S. soybean farmers concerned over the impacts of these proposals, which include the Vulnerable Species Pilot Program (*more details below*) and a draft Herbicide Strategy, the **American Soybean Association** sought a clearer picture of the potential costs the Herbicide Strategy could have—both financially and otherwise—if left unchanged. In Dec., ASA conducted a survey of its farmer board members and a sample of soy growers from affiliate state soy organizations, analysis of which can be found in this **Economist's Angle** by ASA Chief Economist **Dr. Scott Gerlt** and Director of Government Affairs **Kyle Kunkler**, and summarized below.

EPA's proposed **Herbicide Strategy** is meant to bring herbicide registrations into compliance with the Endangered Species Act. While the agency's proposal provides a framework for this goal, it does not estimate the ability of producers to comply with potential regulations. Similar to the VSPP, the picture painted by the ASA grower survey clearly indicates the Herbicide Strategy's requirements for pesticide application most likely would vastly and negatively alter agricultural production.

Approximately 99% of the producers who responded to ASA's survey would have compliance obligations under the Herbicide Strategy: The news was not good. When soybean producers were asked about their ability to meet the proposed Herbicide Strategy obligations, a striking number were not meeting the compliance requirements of the proposal. Data indicates approximately 80% of producers would be in compliance with the proposal and would face moderate to extreme costs to become compliant. Given herbicide resistance issues and a lack of comparable options reported by survey respondents, farmers would be forced to adopt pricy mitigations, accept lower yields due to weed pressure, or need to stop growing crops requiring herbicides with high efficacy point requirements. The survey indicates significant, harmful impact on U.S. agriculture if the proposal is adopted in its current form.

Looking at herbicide usage among survey respondents for active ingredients EPA identified in a case study within its proposal, the herbicides listed were used by nearly all producers participating in the survey. Those respondents indicated they would face significant challenges in altering the mix they are currently using. Herbicide-resistant weeds are becoming a big challenge for growers, with 41% rating it as a major issue. Only 11% do not have at least moderate problems with herbicide resistance. Largely as a result of herbicide resistance, growers have limited flexibility to change their herbicide mix. Nearly all respondents (93%) stated they could not easily remove these products from their lineup. In other words, swapping or removing herbicides to lower the efficacy point requirements under the Herbicide Strategy is difficult.

Looking at eligible mitigations currently used on respondents' farms, over half the participating farmers used no-till or reduced tillage on all or most of their acres. Less than 10% did not use either conservation tillage. Beyond tillage, most of the mitigations are either scarcely utilized or unavailable,

as no other option exceeded 50% adoption for respondents. For 11 of the 18 mitigations listed in the survey, over half the respondents did not utilize the mitigation on their fields.

While understanding mitigation adoption is useful, it only tells part of the story. More important to Herbicide Strategy implementation is whether the mitigations will be adequate to meet the efficacy point requirements for herbicide usage. ASA utilized location data, herbicide usage reported, and crops grown to determine potential efficacy points needed for each respondent. This was compared against the efficacy points generated based upon current practices (*see Economist's Angle for list of assumptions made during this analysis*).

The results were disheartening: Only 21% of respondents would meet the efficacy point requirements for their farm with practices currently in place. Nearly half (48%) of those surveyed lack five or more points. In short, if the Herbicide Strategy were implemented today, most producers would be unable to use herbicides they deem necessary for crop production. This analysis did not consider producers' ability to obtain points through application rate reductions, but even if that were an option for these producers and permitted by the pesticide label, they would need a 50% or higher reduction from what they might be using currently. This could risk the effectiveness of their weed management or worsen herbicide resistance pressures.

While the potential point deficit here is based upon implementation with current practices, the survey followed up by asking how costly the producer would expect adoption of new practices to be. Nearly half (46%) expected their adoption to be moderately costly, with another 38% saying it would be extremely costly. Only 13% expected adoption to be slightly costly, with 3% expecting it not to be costly at all.

Survey Background: The survey asked for respondent location, crops grown, herbicides used, current mitigation practices, among other information, and covered much of the soybean growing region. Given the non-random selection of participants and sample size, survey results should not be treated as statistically significant, definitive evidence. However, given the geographic dispersion of producers (24 states), range of farm size (320 to 9,000 acres) and number of commodities grown (15), coupled with a lack of alternative attempts to quantify the Herbicide Strategy compliance ability of growers, results from these 75 persons provide the best snapshot to date of potential impacts.

Herbicide Strategy Background: While the VSPP is focused on protecting a small list of endangered species, the Herbicide Strategy paints with a much wider brush by applying to herbicides more broadly and including over 900 listed species. Two types of areas are defined in the Herbicide Strategy: one "generalist species" area including endangered species that *do not* have a dependent (obligated) relationship with a specific plant and a second area including endangered species that *do* have a dependent relationship with a specific plant. These latter species fall under Pesticide Use Limitation Areas (PULAs), which have more stringent herbicide requirements. PULAs are smaller than "general" areas—but can still be, say, the size of the state of Iowa. And, almost all cropland acres fall into one of these two areas and thus are affected.

EPA gives some flexibility in the runoff/erosion mitigations that can be used to meet compliance requirements. Herbicide users have a total number of points they must meet for a given herbicide, crop and area. They can choose from potential options that generate points toward that total. Producers have different ways of obtaining points, such field characteristics, reduced herbicide application, in-field measures, field-adjacent measures, water retention systems and combining multiple categories. If a producer is already using a measure, it will apply toward the necessary points. Several potential exemptions to the point requirements are in the proposal, including implementing a mitigation plan from a conservation expert, subsurface drainage into a retention

pond or saturation buffer zone and including at least 1,000 feet between the field and habitat for listed species.

ASA Responses to Draft Herbicide Strategy: During the public comment period for the Herbicide Strategy proposal, ASA and 225 other groups submitted a **letter** to EPA raising significant concerns with the proposal. Among those concerns, the draft Herbicide Strategy would require growers to implement costly runoff conservation practices on their operations and adopt large downwind spray buffers to reduce runoff and spray drift risks to endangered species. The proposal would likely require billions of dollars for farmers across the country to implement and could prevent some farmers from using certain herbicides entirely. ASA also circulated a **petition** to growers, applicators, and other agricultural stakeholders around the country that drew nearly 1,500 signatures calling for withdrawal of the proposal.

Soy growers were pleased that EPA announced mid-March the deadline to finalize the Herbicide Strategy has been extended three months to August 30. EPA requested the extension "so the Agency will have more time to consider public comments on the draft Herbicide Strategy and the input the Agency continues to receive about implementing ESA mitigation measures, particularly on ensuring that measures are practical and effective." ASA looks forward to continuing to work with EPA, other regulators, and stakeholder groups to address the challenges in the proposal and encourage changes that address the concerns raised in ASA's survey.

ASA plans to attend a meeting of the Interagency Working Group authorized to develop solutions for bringing EPA's pesticide program into ESA compliance to offer feedback and raise concerns with the draft Herbicide Strategy, VSPP, and other ESA-proposals that stand to greatly affect U.S. soybean growers. Further background on the **Vulnerable Species Pilot Program** can be found in a **previous Economist's Angle**. That analysis found that, similar to the draft Herbicide Strategy, the VSPP could be prohibitively expensive for soybean growers in affected areas.

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The American Soybean Association (ASA) represents U.S. soybean farmers on domestic and international policy issues important to the soybean industry. ASA has 26 affiliated state associations representing 30 soybean-producing states and more than 500,000 soybean farmers.

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