



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, DC 20460

OFFICE OF CHEMICAL SAFETY
AND POLLUTION PREVENTION

July 18, 2022

MEMORANDUM

SUBJECT: Opening of 60-day public comment period on EPA's Draft Endangered Species Act (ESA) Biological Evaluation for Sulfoxaflor

FROM: Dee Colby, Chief
Invertebrate & Vertebrate Branch 3
Registration Division
Office of Pesticide Programs

A handwritten signature in blue ink that reads "D. Colby".

THRU: Marietta Echeverria, Acting Director
Registration Division
Office of Pesticide Programs

This memorandum opens a 60-day comment period from 7/19/2022 to 9/17/2022 on the EPA draft biological evaluation (BE) for Sulfoxaflor. The draft BE is currently posted to the following public docket and the Agency is taking comment in the docket at <https://www.regulations.gov>.

Docket ID EPA-HQ-OPP-2010-0889

After reviewing comments received during the public comment period on the draft Sulfoxaflor BE, EPA will issue a final BE and a response to public comments document. If EPA determines that these pesticides may affect listed species and/or their designated critical habitats, EPA will initiate consultation with the Services. Based on the BE, the Services will then develop biological opinions for Sulfoxaflor as appropriate.

Background

The Endangered Species Act (ESA) requires federal agencies, such as EPA, to ensure that their actions are not likely to jeopardize the continued existence of species listed as threatened or endangered (listed species) under the ESA or destroy or adversely modify the designated critical habitat of such species. If EPA determines a pesticide may affect a listed species or its designated critical habitat, EPA must initiate consultation with the U.S. Fish and Wildlife Service and/or the National Marine Fisheries Service (collectively referred to as the Services), as appropriate. EPA initiates formal consultations with the Services through the conduct and transmittal of a final BE with its findings.

The Agency has completed a comprehensive, nationwide draft BE for Sulfoxaflor uses relative to the potential effects on listed species and their designated critical habitats. EPA sought a remand of the 2019 registration amendments being challenged in *Center for Food Safety, et al. v. U.S. Environmental Protection Agency* (9th Cir. Nos. 19-72109, 19-72280) to comply with ESA requirements. Although the Court has not yet addressed EPA's remand request, EPA is continuing to work to meet its ESA obligations.

Also included in the docket, the Agency received applications from Corteva Agriscience, LLC requesting registration amendments to propose mitigation for review and consideration in the final BE for the following end-use pesticide products containing the active ingredient, Sulfoxaflor: Closer SC (EPA Registration Number 62719-623), Transform WG (EPA Registration Number 62719-625), XXpire (EPA Registration Number 62719-676), Transform CA (EPA Registration Number 62719-727), Sequoia CA (EPA Registration Number 62719-728), and Ridgeback (EPA Registration Number 62719-749).

The Agency encourages stakeholders to submit comments on the draft BE and the registration amendments proposed by the registrant. EPA may also consider mitigations in addition to those proposed by the registrant, e.g., adding or increasing buffers, imposing geographical limits, or incorporating additional methods to reduce drift. EPA encourages stakeholders to submit comments on any mitigation measures that may be appropriate and on the usage data that EPA incorporated in the draft BE, as well as any Sulfoxaflor-specific usage data that may be relevant. EPA will consider the proposed and any additional amendment requests, as well as any comments on the draft BE, in preparing a final BE.

Process for Submitting Comments

EPA is providing an opportunity for interested parties to provide comments and input concerning the Agency's draft BE for Sulfoxaflor and the proposed amendments submitted by Corteva.

When submitting comments, identify the docket ID, as referenced above, and submit the comments by one of the following methods:

- Federal e-Rulemaking Portal: <http://www.regulations.gov>. Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information or other information for which disclosure is restricted by statute.
- Mail: OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW., Washington, DC 20460-0001.
- Hand Delivery: To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at <http://www.epa.gov/dockets/contacts.html>.
- The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room and the OPP Docket is (202) 566-1744. Please review the visitor instructions and additional information about the docket available at <https://www.epa.gov/dockets>.

For further information contact: Marietta Echeverria, Registration Division (7505T), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460-0001; telephone number: (703) 202-566-1030; email address: RDNRNotices@epa.gov.