

Melanie Biscoe
Pesticide Re-Evaluation Division
Office of Pesticide Programs
Environmental Protection Agency,
1200 Pennsylvania Ave., N.W.
Washington, DC 20460-0001.
Biscoe.melanie@epa.gov

September 28, 2021

Docket ID: EPA-HQ-OPP-2017-0750
FRL-8676-01-OCSP

Re: Request for 60-Day Extension to the Comment Period for Pesticide Registration Review; Proposed Interim Decisions for Several Pesticides; Notice of Availability

The undersigned organizations, representing the overwhelming vast majority of agriculture, livestock and poultry farmers and ranchers across the United States, respectfully request a 60 day extension, from October 4, 2021 until December 3, 2021, to the comment period for EPA's Pesticide Registration Review; Proposed Interim Decisions for Several Pesticides; Notice of Availability. We only learned of the existence of this review, and the impending close of the comment period, yesterday afternoon September 28, 2021. EPA apparently conducted no outreach to the livestock, or agricultural community, on its proposed decision to ban what appears to be the most utilized methods of using both Pyrethrins and Piperonyl by livestock farmers. We require the additional time in order to review EPA's proposal, understand its basis and the agency's risk assessment, its actual impact on the livestock producers we represent and provide meaningful comments.

Our producers are significant consumers of at least two of the pesticides, Pyrethrins and Piperonyl, covered by EPA's proposed interim decision. Livestock producers rely on the continued affordability and availability of those pesticides to, among other reasons, reduce insects and maintain the biosecurity of our livestock production areas. Preventing the introduction of disease agents is a continuous challenge for livestock and poultry farmers and their veterinarians and is essential to maintaining an effective defense of the nation's ability to feed itself.

When a farm or site is affected by disease, the impact can be devastating to the health of the herd, including significant increases in animal mortality and a severe economic loss for the producer. Loss of access to Pyrethrins and Piperonyl, or their use as an aerosol, dusting, or fogging agent removes one of the primary tools that livestock and poultry farmers use to maintain biosecurity and eliminate the spread of disease. Its impact would be devastating to not only our industry but the national security of the United States.

President Obama's January 21, 2009 *Memorandum on Transparent and Open Government*, stated three main directives for agencies to follow the pursuit of a more open government:

- **Government should be transparent**
- **Government should be participatory.**
- **Government should be collaborative.**

President Obama's policy on open government and enhanced opportunity for meaningful participation in the regulatory process was, of course, not new but part of a long established policy across Administrations to make the regulatory process more meaningful and engage stakeholders more directly. In signing *Executive Order 12866, Regulatory Planning and Review* (September 30, 1993), President Clinton made clear through Section 6(a)(1) that:

Each agency shall (consistent with its own rules, regulations, or procedures) provide the public with meaningful participation in the regulatory process. In particular, before issuing a notice of proposed rulemaking, each agency should, where appropriate, seek the involvement of those who are intended to benefit from and those expected to be burdened by any regulation (including, specifically, State, local, and tribal officials). In addition, ***each agency should afford the public a meaningful opportunity to comment on any proposed regulation***, which in most cases should include a comment period of ***not less than 60 days***. Each agency also is directed to explore and where, appropriate, use consensual mechanism for developing regulations, including negotiated rulemaking. (emphasis added)

On January 19, 2011, President Obama signed Executive Order 13563, *Improving Regulation and Regulatory Review*. It supplements the requirements of E.O. 12866, and further provides in Section 2(a) that:

(a) Regulations shall be adopted through a process that involves public participation. To that end, regulations shall be based, to the extent feasible and consistent with law, on the open exchange of information and perspectives among State, local, and tribal officials, experts in relevant disciplines, affected stakeholders in the private sector, and the public as a whole.

Furthermore, Section 2(b) directly addresses the necessity of allowing stakeholders to comment on the entire of a proposal's docket.

To the extent feasible and permitted by law, each agency shall also provide, for both proposed and final rules, timely online access to the rulemaking docket on regulations.gov, including relevant scientific and technical findings, in an open format that can be easily searched and downloaded. For proposed rules, ***such access shall include***, to the extent feasible and permitted by law, ***an opportunity for public comment on all pertinent parts of the rulemaking docket, including relevant scientific and technical findings.***

EPA's proposed decision and the technical documents in the docket supporting these registration reviews are extremely complex. While EPA appears to have first began its review of these pesticides in 2010 and 2011, and published its notice of Interim Decision on August 3, 2021, neither the undersigned organizations nor our members were made aware of this decision until 10:30 am on September 28, 2021, a mere six days prior to the close of the comment period. We only became aware of this issue due to a notice originally distributed by the National Association of State Animal Health Officials on September 27, 2021. As a result, the nation's livestock and poultry farmers, and indeed the entire food supply chain, have effectively been denied any meaningful opportunity to participate in EPA's Interim Decision on the further use of these pesticides.

Since learning of EPA's proposed Interim Decision, the undersigned have moved quickly to read and understand the full impact of these decision, including communicating with our members. In addition, while we would appreciate the opportunity to work with EPA to understand the goals of the agency in reaching this decision, that effort has been hampered by the continued failure of the Administration to replace the long vacant post of Agricultural Liaison. Indeed, that office currently lacks either a political or a career staff who has any outreach or engagement with the agricultural community which depend on these pesticides, likely leading to the complete failure of EPA to notify a significant segment of stakeholders who rely on the use of these pesticides of the agencies proposed decision.

In light of the nearly eleven years that EPA has spent reviewing these pesticides, a mere six days to read, review, and comprehend at least 155 pages (if not many more) of complex risk assessment and scientific analysis of these pesticides, and then communicate with our members in the preparation of comments, a mere six days is simply not enough time to develop meaningful comments on the proposals impact of the continued availability and use of these pesticides that are of central importance to food animal production.

Accordingly, we respectfully request an additional 60 day extension, from October 4, 2021 until December 3, 2021 for filing of comments.

Thank you for your attention to this matter. If you have any further questions, please contact Michael Formica at the National Pork Producers Council at 202-347-3600 or by email at formicam@nppc.org

Sincerely,

American Farm Bureau Federation
National Cattlemen's Beef Association
National Cotton Council
National Council of Farmer Cooperatives
National Milk Producers Federation
National Pork Producers Council
National Turkey Federation
U S Poultry & Egg Association
United Egg Producers
Alabama Pork Producers
Alabama Poultry & Egg Association
Arizona Pork Council
Chicken and Egg Association of
Minnesota
Colorado Pork Producers Council
Georgia Poultry Federation
Illinois Pork Producers Association
Iowa Pork Producers Association
Iowa Poultry Association
Kansas Pork Association
Kentucky Pork Producers Association
Louisiana Pork Producers Association
Minnesota Pork Producers Association
Mississippi Poultry Association

Missouri Pork Association
Missouri Egg Council
Missouri Poultry Federation
Nebraska Pork Producers Association
North Carolina Egg Association
North Carolina Pork Council
Northeast Dairy Farmer Cooperatives
Ohio Cattlemen's Association
Ohio Dairy Producers Association
Ohio Pork Council
Ohio Poultry Association
Ohio Sheep Improvement Association
Oregon Cattlemen's Association
Oregon Dairy Farmers Association
Oregon Pork Council
PA Pork Producers Council
Penn Ag Industries Association
South Carolina Poultry Federation
South Dakota Pork Producers Council
Tennessee Poultry Association
Virginia Poultry Federation
Washington State Dairy Federation
Wisconsin Pork Association