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Chairman Lincoln, Ranking Member Chambliss, and members of the Committee, thank you for the opportunity to testify on the impact of U.S. Environmental Protection Agency's (EPA's) programs on agriculture and to focus on specific areas where our pesticide, water, and other programs affect agriculture and farmers.

EPA'S Role in Regulating Pesticides

One of EPA's missions is to protect human health and the environment from potential risks associated with pesticide use. When used properly, pesticides provide significant benefits, such as controlling disease causing organisms and fostering a safe and abundant food supply. EPA has numerous aspects to our registration process that help ensure pesticides in the U.S. are registered, sold, distributed, and used in a way that is protective of public health and the environment. As we carry out these various programs, I want to assure you that EPA is committed to working with Congress, our state and federal regulatory partners, the agricultural community, nongovernmental organizations, the general public, and all of our stakeholders on these important issues in an open and transparent manner.

The primary statutes regulating pesticide use in the United States are the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Federal Food, Drug, and Cosmetic Act (FFDCA) as amended by the Food Quality Protection Act (FQPA). FIFRA gives EPA the authority to regulate the registration (licensing) and use of pesticides and FFDCA governs the establishment of tolerances (also known as maximum residue limits) on food and animal feed. For a pesticide to be registered under FIFRA, it must be demonstrated that the pesticide's use will not cause unreasonable adverse effects on human health or the environment. FIFRA provides EPA with authority to make pesticide regulatory decisions necessary to ensure the safe use of pesticides and to require the submission of any data that the Agency determines is needed to reach those decisions. FIFRA also requires the periodic review of existing registrations to ensure pesticides continue to meet the most current scientific and regulatory standards.

The second statute, FFDCA, governs the establishment of tolerances (maximum allowable residue limits in food or animal feed) and requires that these levels are sufficient to ensure a reasonable certainty of no harm from exposure. When establishing or modifying a tolerance, EPA must consider: available information about infants and children; cumulative effects of exposure (not just to the pesticide being considered for the tolerance but to other pesticides with a common mechanism of toxicity); and, aggregate exposure from other nonoccupational possible routes of exposure. Additionally, FQPA requires EPA to apply an additional safety factor when establishing tolerances for foods consumed by children, unless reliable data indicate a lesser factor would be protective. Overall, EPA is committed to: using the best available science when reaching regulatory decisions; finding ways to effectively

communicate those decisions; developing educational and training opportunities to help pesticide users make informed choices; and, ensuring proper implementation of pesticide statutes.

Atrazine

Consideration of scientific information will always drive all EPA actions, including EPA's decision to conduct an assessment of the scientific issues associated with atrazine's potential human health and environmental effects. In 2003, EPA completed a comprehensive review of atrazine and determined, based on the science available at the time, that it is not likely to adversely impact human health or have unreasonable impacts on the environment when used consistent with new labeling restrictions. As a condition for continued registration, EPA implemented programs to confirm the effectiveness of risk mitigation measures to protect drinking water resources and aquatic life by extensive monitoring of community drinking water systems and vulnerable waterways. While Atrazine was initially reregistered in 2003, the Agency conditioned registrations at that time with a requirement that the atrazine registrants conduct water monitoring for approximately 150 community water systems to ensure that levels of atrazine do not reach EPA's level of concern. These water systems have been monitored on a weekly basis during the peak atrazine use season and biweekly during the rest of the year.

In the more than seven years since the reregistration decision, more than one hundred new studies have been conducted on human health effects of atrazine. There are also a variety of data sources that document the presence of atrazine in both drinking water sources and other bodies of water, including the monitoring discussed above. The Agency determined it appropriate to consider the new research and to ensure that our regulatory decisions about

atrazine reflect the best available science and continue to protect public health. This thorough assessment will be based on transparency and sound science, including independent scientific peer review. The forum of the Scientific Advisory Panel ensures all studies can be carefully considered in the re-evaluation process. It is also important to recognize that the assessment is not in and of itself a regulatory action, but rather a critical part of the scientific process the Agency uses to inform sound regulatory decisions.

Prior to the October 2009 announcement of EPA's atrazine assessment, EPA had convened a number of FIFRA Scientific Advisory Panels (SAPs) to review new atrazine research concerning cancer, amphibians, and aquatic ecosystems. EPA has taken a similar approach in evaluating other pesticides. Since the announcement of the atrazine re-evaluation, EPA has had four public meetings with the independent SAP. A brief timeline follows:

- November 3, 2009, EPA presented its plan for the atrazine re-evaluation to the SAP. In 2010, EPA held three public SAP meetings to invite peer review on atrazine;
- February 2-4, 2010 – EPA presented and sought scientific peer review of its proposed plan for incorporating epidemiology studies into the atrazine risk assessment;
- April 26-29, 2010 – EPA presented and sought scientific peer review of its evaluation of atrazine effects based on experimental laboratory studies, and the sampling design currently used to monitor drinking water in community water systems; and
- September 14-17, 2010 – EPA presented and sought peer review of its evaluation of atrazine non-cancer effects based on experimental laboratory studies and epidemiology studies. This review included new experimental laboratory data since the April 2010 SAP meeting.

Also underway is an epidemiological Agricultural Health Study being conducted by the National Cancer Institute that is evaluating the potential association between atrazine and cancer risk. When the results are available, likely in 2011, in keeping with guidance provided by the SAP, EPA will schedule another peer review on the Agricultural Health Study findings as well as other studies concerning cancer. The 2011 SAP review will also address EPA's progress on recommendations received in the 2010 reviews. Typically, SAP reports are available 90 days after the public meeting is completed. The reports from the February and April meetings are available.

At the conclusion of EPA's assessment of atrazine's human health effects, EPA will ask the SAP to review atrazine's potential effects on amphibians and aquatic ecosystems. EPA will continue to closely track new scientific developments and will determine whether a change in our current human health and ecological risk assessment for atrazine is warranted based on the best peer reviewed science available.

Pesticides and the Endangered Species Act

As you may know, Section 7 of the Endangered Species Act (ESA) requires that federal agencies ensure the actions they authorize, fund, or carry out are not likely to jeopardize the continued existence of listed species or destroy or adversely modify designated critical habitat. When an action, such as a pesticide registration, "may affect" a listed species or its habitat, the federal agency is generally required to consult with the Department of Interior's Fish and Wildlife Service (FWS), or the National Oceanic and Atmospheric Administration's (NOAA)

National Marine Fisheries Service (NMFS) (jointly referred to as the Services) who share responsibility for implementing the ESA.

As a result of lawsuits against the EPA for not evaluating impacts of pesticides to threatened or endangered species, the Agency is subject to court mandated schedules to make effects determinations and consult, as appropriate, on over a hundred different pesticides. For the many ESA consultations we face, our goal with the Services and stakeholders is to ensure our assessments are scientifically sound, that the process is transparent, and that decisions are timely. To promote these goals, there is a senior level workgroup involving EPA, NOAA, and the Department of the Interior, focused on improving the scientific and regulatory coordination that is necessary to comply with the ESA.

We are also focusing our ESA compliance efforts on the Registration Review program. That is the statutorily required program to systematically reevaluate all pesticides on a 15 year cycle for compliance with federal pesticide laws. In establishing the Registration Review process, EPA has established, by rule, multiple opportunities for public input on preliminary risk assessments and potential risk mitigation measures. This process also facilitates public participation on endangered species assessments undertaken by EPA. EPA is committed to furthering a credible and transparent process that fulfills its responsibilities under the law, facilitates opportunities for registrant, grower and public involvement, and provides viable risk mitigation measures.

We are working to develop consensus between EPA and the Services on scientific methodologies needed to successfully implement this program. While we move forward in that effort, the Agency will continue to be guided by sound science and transparency, while also not placing unnecessary burdens on agriculture and other pesticide users.

EPA's Pesticide General Permit

The Environmental Protection Agency intends to issue a National Pollutant Discharge Elimination System (NPDES) Pesticide General Permit (PGP) for point source discharges from the application of pesticides to waters of the United States. This action is in response to a January 7, 2009, decision by the U.S 6th Circuit Court of Appeals which vacated EPA's 2006 rulemaking that certain pesticide applications to U.S. waters did not require NPDES permits if they were used in accordance with the label. As a result of the Court's decision, NPDES permits will be required by April 9, 2011, for pesticide application discharges directly to waters of the United States to control pests.

EPA provided public notice of the draft PGP on June 4, 2010, for the control of discharges to waters of the U.S. for the following four pesticide use patterns:

- Mosquito and other flying insect pest control;
- Aquatic weed and algae control;
- Aquatic nuisance animal control; and
- Forest canopy pest control.

The Agency plans to issue its final PGP in December 2010. Once issued, the PGP will be implemented in states, territories, Indian Country lands and federal facilities where EPA is the NPDES permitting authority. In the other 44 states and the Virgin Islands, the state or territory as the NPDES permitting authority will issue permits similar to the one currently under development at EPA. The Agency has been working closely with those states to concurrently develop their NPDES permits for pesticide discharges.

The Agency has conducted an intensive outreach effort to the agricultural community including attending more than 140 meetings with stakeholder organizations such as Crop Life America, the National Association of Conservation Districts, the National Corn Growers Association, the Potato Council, the Cranberry Institute, and the American Cranberry Growers Association.

Additionally, we worked with both our state environmental protection counterparts, as well as each of the state Departments of Agriculture. EPA conducted regular conference calls open to all states and provided face to face meetings and a webcast where we provided draft permit prototypes for review and discussion. In this way, we were able to develop a common-sense, workable permit for regulators as well as the application industry. We plan to hold one more face to face meeting with state officials prior to promulgation of this permit.

Finally, EPA held four public meetings around the country to educate farmers and the public about the requirements in the proposed permit so that attendees would be able to provide more knowledgeable comments during the comment period. We also held two national webcasts

open to the general public. We have received approximately 750 individual comment letters, many from agricultural interest groups, that we will consider as the permit is finalized.

America's Great Water Bodies – Progress Through Partnership

In addition to our role in regulating pesticide use, EPA acts to protect and restore water quality. Some examples include our partnerships to help protect and restore the Gulf of Mexico, the Chesapeake Bay, and the Great Lakes.

Gulf of Mexico

EPA's work in the Mississippi and Atchafalaya River Basin is built on longstanding partnerships EPA has established with states, federal agencies, local governments and other stakeholders. We are working with the U.S. Department of Agriculture (USDA) to coordinate funding and effective conservation practice implementation through EPA's section 319 program and the Natural Resources Conservation Service Mississippi River Basin Initiative. EPA also chairs the Hypoxia Task Force, a partnership of federal and state agricultural and environmental agencies, which collaborates to identify the most effective federal and state activities to accelerate nutrient reductions and leverage and strengthen efforts. The Task Force mission is to understand causes and effects of hypoxia in the Gulf of Mexico and coordinate activities to reduce its extent and ameliorate its effects. The revised 2008 Gulf Hypoxia Action Plan lays out eleven Key Actions, including the development and implementation of comprehensive state specific nutrient reduction strategies to reduce the most significant loadings in the state and

Basin and to the Gulf. Other actions include advancing the science, tracking progress, and raising public awareness.

Chesapeake Bay

Likewise, EPA's work to protect and restore the Chesapeake Bay involves working with the Chesapeake Bay states, federal partners, local governments and stakeholders. In 2009, President Obama signed EO 13508, directing Federal agencies to restore the Chesapeake Bay. Additionally, the Chesapeake Executive Council, comprised of EPA, the governors of the Chesapeake Bay states, the Mayor of the District of Columbia, and the Chesapeake Bay Commission, a tri-state legislative body, committed to establish all of the controls and management practices needed to restore the Bay by 2025. Together with Federal partners, EPA is working closely with the states to help achieve this important goal. EPA believes that steady progress towards this long term goal will demonstrate to the public that the Bay cleanup is indeed underway while, at the same time, allowing states and sources of pollution to make the necessary investments incrementally and efficiently. EPA greatly appreciates the pivotal work USDA is doing to help Bay states and farmers make important progress towards restoring water quality and, at the same time, advance other vital social goals, such as: preserving farming as a way of life in the Chesapeake Region, preserving open space, protecting and restoring fish and wildlife habitat, and contributing to a bountiful food supply.

We expect to release a draft Total Maximum Daily Load (TMDL) for the Chesapeake Bay on September 24, 2010. A TMDL is a calculation of the maximum amount of a pollutant that a waterbody can receive and still meet water quality standards. This action is a product of

more than 2 years of extensive work among scientists and other federal and state agencies. It is rooted in a commitment made ten years ago by the states and the federal government. Specifically, the signatories to the 2000 Chesapeake Bay Agreement pledged to develop a TMDL if the actions of the last decade were not successful in achieving water quality standards in Bay waters.

The draft TMDL builds upon the strategies submitted by the states to EPA earlier this month. Together with the states, we will conduct a thoughtful public engagement process throughout the watershed over the next two months, including 18 public meetings and more than 40 smaller meetings with various stakeholder groups. We are committed to finalizing the TMDL by the end of the year to satisfy our statutory and court ordered obligations to implement a TMDL for these impaired waters.

Great Lakes

EPA is committed to partnering with USDA as part of the federal Interagency Task Force implementing the Great Lakes Restoration Initiative (GLRI. Many places around the Great Lakes – such as the Western Basin of Lake Erie – are suffering from runoff-related problems such as:

- Eutrophication and harmful algal blooms that can degrade nearshore water quality;
- Green algae Cladophora that rots and causes beach closings;
- Avian botulism that kills birds; and
- Sedimentation that smothers fish habitat, among other impacts.

Under the GLRI, EPA, USDA, and other federal agencies are taking action to attack these and related water quality and environmental problems. Under the GLRI Action Plan released in February, the agencies must achieve a 4.5 % reduction in soluble reactive phosphorus loadings over five years and an annual reduction of 1 million cubic yards of sediment deposited into Great Lakes waters. In FY 2010, EPA has provided $51.5 million in GLRI funding to USDA. EPA is also using over $13 million in GLRI grants to conservation districts and others to address these issues.

EPA will continue to implement our programs and work with our partners and stakeholders to support agriculture and America's farmers. We look forward to continuing our work with this Committee, our fellow agencies, our stakeholders, and the public to ensure a healthy and prosperous America.

Thank you again for inviting me to testify here today, and I look forward to answering your questions.