



U.S. ENVIRONMENTAL PROTECTION AGENCY

OFFICE OF INSPECTOR GENERAL

Ensuring the safety of chemicals

EPA Needs to Determine Strategies and Level of Support for Overseeing State Managed Pollinator Protection Plans

Report No. 19-P-0275

August 15, 2019



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Abbreviations

AAPCO	Association of American Pesticide Control Officials
CFR	Code of Federal Regulations
EPA	U.S. Environmental Protection Agency
FIFRA	Federal Insecticide, Fungicide, and Rodenticide Act
FY	Fiscal Year
MP3	Managed Pollinator Protection Plan
NPMG	National Program Manager Guidance
OCSP	Office of Chemical Safety and Pollution Prevention
OIG	Office of Inspector General
PPDC	Pesticide Program Dialogue Committee
SFIREG	State FIFRA Issues, Research and Evaluation Group

Cover Photo: A honey bee hive. (U.S. Fish and Wildlife Service photo)

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At a Glance

Why We Did This Project

The U.S. Environmental Protection Agency (EPA) Office of Inspector General (OIG) conducted this audit to determine how the EPA oversees states' Managed Pollinator Protection Plans (MP3s), which are designed to reduce pesticide exposure to pollinators through timely communication and coordination among key stakeholders. *Managed pollinators* are generally honey bees that beekeepers contract out to growers for their pollination services.

In June 2014, a presidential memorandum, *Creating a Federal Strategy to Promote the Health of Honey Bees and Other Pollinators*, charged numerous federal agencies to address the factors contributing to pollinator decline. As part of this effort, the EPA has worked to encourage state pesticide agencies to develop state-specific MP3s with clearly defined scopes, including the species of managed pollinators addressed.

This report addresses the following:

- Ensuring the safety of chemicals.

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EPA Needs to Determine Strategies and Level of Support for Overseeing State Managed Pollinator Protection Plans

What We Found

Under the authority of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), the EPA works to reduce unwanted pesticide exposure to both managed pollinators and native pollinators such as insects, birds and animals. The MP3 voluntary program encourages states to develop a plan as part of the EPA's overall national pollinator protection efforts. The EPA plays a supportive role in overseeing the development, implementation and measurement of state MP3s, as outlined in the agency's National Program Manager Guidance. The EPA does not review, approve or provide direct funding for the development or implementation of state MP3s.

We found that, as of January 2018, 45 states had developed or were developing MP3s. To provide guidance for MP3 development, the EPA worked with two state government groups: the Association of American Pesticide Control Officials (AAPCO) and an AAPCO committee called the State FIFRA Issues, Research and Evaluation Group (SFIREG). However, we found that the EPA does not have a means to evaluate the national impact of MP3s. As of May 2019, AAPCO/SFIREG, in consultation with the EPA, developed a survey to evaluate MP3s, which is expected to be distributed to state pesticide agencies in the fall of 2019. Despite these survey efforts and plans, the EPA had not developed a strategy to use the survey data to evaluate either the national impact of MP3s or the agency's support of state MP3 implementation efforts.

In addition, both nongovernmental organizations and states reported that the EPA focuses on acute risks—those that occur during a single exposure to a specific pesticide—to managed pollinators. Other areas of concern, such as chronic contact with pesticides and native pollinator protection activities, may not be receiving appropriate attention. The EPA needs to decide how it will measure, support and assist in the implementation of MP3s.

Recommendations and Agency Planned Corrective Actions

We made five recommendations to the Assistant Administrator for Chemical Safety and Pollution Prevention, including determining whether the outcomes of states' MP3s are meeting the EPA's goals for the program and what support the EPA will provide to assist MP3 implementation efforts. The agency agreed with our recommendations and provided acceptable corrective actions.

Honey bee pollination adds more than \$15 billion in value to U.S. agricultural crops each year. However, the number of managed honey bee colonies in the United States has declined from 5.7 million colonies in the 1940s to 2.7 million colonies in 2015.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OFFICE OF
INSPECTOR GENERAL

August 15, 2019

MEMORANDUM

SUBJECT: EPA Needs to Determine Strategies and Level of Support for Overseeing
State Managed Pollinator Protection Plans
Report No. 19-P-0275

FROM: Charles J. Sheehan, Deputy Inspector General

A handwritten signature in blue ink that reads "Charles J. Sheehan".

TO: Alexandra Dapolito Dunn, Assistant Administrator
Office of Chemical Safety and Pollution Prevention

This is our report on the subject audit conducted by the Office of Inspector General (OIG) of the U.S. Environmental Protection Agency (EPA). The project number for this audit was OA&E-FY19-0029. This report contains findings that describe problems the OIG identified and corrective actions the OIG recommends. This report presents the opinion of the OIG and does not necessarily represent the final EPA position. Final determinations on matters in this report will be made by EPA managers in accordance with established audit resolution procedures.

The Office of Chemical Safety and Pollution Prevention's Office of Pesticide Programs has primary responsibility for the subjects covered in this audit.

In accordance with EPA Manual 2750, your office provided acceptable corrective actions and milestone dates in response to OIG recommendations. All recommendations are resolved, and no final response to this report is required. However, if you submit a response, it will be posted on the OIG's website, along with our memorandum commenting on your response. Your response should be provided as an Adobe PDF file that complies with the accessibility requirements of Section 508 of the Rehabilitation Act of 1973, as amended. The final response should not contain data that you do not want to be released to the public; if your response contains such data, you should identify the data for redaction or removal along with corresponding justification.

We will post this report to our website at www.epa.gov/oig.

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Purpose

The U.S. Environmental Protection Agency's (EPA's) Office of Inspector General (OIG) conducted this audit to determine how the EPA is overseeing states' Managed Pollinator Protection Plans (MP3s), which are designed to reduce pesticide exposure to bees.

Background

The EPA is responsible for regulating pesticides under the authority of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). Part of the EPA's work in implementing FIFRA is to reduce unwanted pesticide exposure to managed pollinators,¹ as well as native pollinators such as insects, birds and animals.

Pollinators are at risk of pesticide exposure when growers spray pesticides on the crops that the pollinators visit to collect pollen and nectar. Pollinators contribute substantially to the economy of the United States and are vital to keeping fruits, nuts and vegetables in our diets.

Pollinator Glossary

Pollinators include bees, insects, birds and other animals that move pollen from one flower to another, thereby fertilizing plants and allowing them to reproduce.

Managed pollinators are generally honey bees under contract to agricultural producers for their pollination services.

Native pollinators are those species that are native to a specific region of the United States.

According to the U.S. Department of Agriculture's National Agricultural Statistics Service, three-fourths of all native plants in the world require pollination. Pollinators, most often honey bees, are responsible for one in every three bites of food we take, and pollinators increase the United States' crop values each year by more than \$15 billion. However, habitat loss, disease and pesticide use have caused serious declines in U.S. pollinator populations. For example, the number of managed honey bee colonies in the United States has declined from 5.7 million colonies in the 1940s to 2.7 million colonies in 2015.

A June 2014 presidential memorandum, *Creating a Federal Strategy to Promote the Health of Honey Bees and Other Pollinators*, established a Pollinator Health Task Force consisting of representatives from numerous federal agencies. The memorandum charged the task force with developing various plans to address factors that contribute to pollinator losses. As a co-chair of the task force, the EPA has worked to engage states in developing MP3s as a way to mitigate the risk of pesticides to bees and other pollinators.

The EPA created the MP3 voluntary program as part of the EPA's Office of Pesticide Programs' *Policy to Mitigate the Acute Risk to Bees from Pesticide Products*, issued January 2017. The main focus of this policy is a two-pronged approach to protect pollinators from the risks of pesticides:

¹ Per 40 CFR § 156.80(a), "Each [pesticide] product is required to bear hazard and precautionary statements for environmental hazards, including hazards to non-target organisms, as prescribed in this subpart."

1. Develop additional pesticide label use restrictions to protect managed bees under contract pollination agreements from acute pesticide risks.²
2. Support state MP3 development.

In this policy, the EPA committed to monitoring the progress and effectiveness of MP3s and other pollinator protection plans in reducing pesticide exposure to bees. The EPA also included pollinator protection as a national focus in both its fiscal years (FYs) 2016–2017 and FYs 2018–2019 *Office of Chemical Safety and Pollution Prevention National Program Manager Guidance* documents. Specifically, the National Program Manager Guidance (NPMG) for FYs 2018–2019 states:

Through risk assessment, mitigation, education, and outreach, EPA’s Office of Pesticide Programs’ goal for pollinator protection is to ensure all pollinators including managed pollinators such as honey bees, and native pollinators, including Monarch Butterflies, are protected from adverse effects of pesticide exposure.

MP3s are supported by a federal-state partnership (Table 1). The EPA works with two state government associations—the Association of American Pesticide Control Officials (AAPCO) and an AAPCO committee called the State FIFRA Issues, Research and Evaluation Group (SFIREG)—to provide guidance to states on the development of their MP3s. The EPA also works closely with the Pesticide Program Dialogue Committee (PPDC), a federal advisory committee that includes scientists, pesticide industry representatives and environmental advocates, to advise the EPA on a variety of pesticide issues.

Table 1: Federal and state partners active in the MP3 process

Organization	Role in MP3 process
AAPCO	<ul style="list-style-type: none"> • Is the primary EPA partner representing state government officials who implement FIFRA. • Maintains state inventory of MP3 status.
SFIREG	<ul style="list-style-type: none"> • Is a subcommittee of AAPCO. • Developed the <i>Final Guidance for State Lead Agencies for the Development and Implementation of Managed Pollinator Protection Plans</i>. • Agreed to distribute annual state-level survey and gather data.
EPA	<ul style="list-style-type: none"> • Assisted in developing SFIREG guidance. • Supports state development of MP3s.
PPDC	<ul style="list-style-type: none"> • Is a federal advisory committee that advises the EPA on pesticide issues. • Established a Pollinator Protection Plan Metrics workgroup. • Developed performance metrics to gauge efficacy of MP3s. • Developed recommendations to evaluate the effectiveness of MP3s at the national level.

Source: OIG.

² A *contract pollination service* means an agreement, which can be written or oral, where the grower and beekeeper have a shared understanding of a target crop for the service, a time frame during which pollination services are needed, and when potential exposure to the honey bees is therefore greatest. *Acute risk* means the risk of potential effects to individual adult bees by a single exposure to an active pesticide ingredient, per the EPA’s *Guidance on Exposure and Effects Testing for Assessing Risks to Bees*.

According to SFIREG’s *Final Guidance for State Lead Agencies for the Development and Implementation of Managed Pollinator Protection Plans* (June 2015), “The primary purpose of a state [MP3] is to reduce pesticide



Managed pollinators in an orchard. (EPA photo)

exposure to bees through timely communication and coordination among key stakeholders, including beekeepers, growers, pesticide applicators, and landowners.” Pesticide applicators and beekeepers can minimize pesticide exposure to pollinators by coordinating their activities before pesticides are applied to crops; this coordination facilitates the use of crop protection products without adversely affecting managed pollinators.

States are encouraged to clearly define the scope of their plans based on local issues and concerns. MP3s therefore vary by state, depending on the pollinator risks that each state chooses to address and the scope of pollinator protection that each state chooses to implement.

Scope and Methodology

We conducted work for this performance audit from December 2018 through June 2019 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our conclusions based on our audit objective.

For the purpose of this audit, *oversight* is defined as the activities that the EPA undertakes to track the development, implementation and measurement of state MP3s. To obtain an understanding of the agency’s oversight of MP3s, we reviewed federal, EPA, association and nongovernmental organization documents, including the following:

- Presidential Memorandum, *Creating a Federal Strategy to Promote the Health of Honey Bees and Other Pollinators*, issued June 20, 2014.
- EPA, *Office of Chemical Safety and Pollution Prevention Final FY 2016–2017 National Program Manager Guidance*, Publication Number 743F15001.
- EPA, *Office of Chemical Safety and Pollution Prevention National Program Manager Guidance: Fiscal Years 2018–2019*, Publication Number 710F17001, issued August 2017.
- SFIREG, *Final Guidance for State Lead Agencies for the Development and Implementation of Managed Pollinator Protection Plans*, issued June 2015.

We also reviewed AAPCO's state MP3 inventory and interviewed staff from the Office of Chemical Safety and Pollution Prevention (OCSPP), selected states, nongovernmental organizations, and trade associations.

The scope of this audit focuses specifically on MP3s developed and implemented by states. While tribes also can develop and implement MP3s, they do not fall within the scope of this audit.

Responsible Office

The Office of Pesticide Programs within the OCSPP is responsible for oversight of state MP3s.

Results

The MP3 voluntary program encourages states to develop a plan as part of the EPA's overall national pollinator protection efforts. The EPA plays a supportive role in overseeing the development, implementation and measurement of state MP3s, as outlined in the OCSPP NPMG. However, while the EPA assisted in developing guidance and encouraged states to develop MP3s, the agency has not determined, as of May 2019, how it will analyze and measure national MP3 outcomes. In addition, we found that the EPA needs to determine its next steps in overseeing state MP3s, including developing a strategy to use state-gathered survey data, clarifying the agency's role in supporting MP3 implementation and considering additional risks to pollinators. By considering these areas, the EPA's oversight of MP3s can be improved.

EPA Plays Supportive Role in Overseeing MP3s

The EPA oversees MP3s by helping states develop, implement and measure their MP3s. The EPA worked with SFIREG to provide guidance and outline best management practices for MP3 development. In June 2015, SFIREG released *Final Guidance for State Lead Agencies for the Development and Implementation of Managed Pollinator Protection Plans*, which included input from the EPA. This guidance includes numerous "critical elements" for states to consider while developing their plans:

- A stakeholder participation process.
- A method for growers/applicators to know whether pollinators are near treatment sites.
- A method for growers/applicators to identify and contact beekeepers prior to applying pesticides.
- Best management practices to minimize pesticide risks to bees.
- A process for public outreach.
- A process for reviewing and updating the plan.
- A way to measure the outcomes of the plan.

The AAPCO maintains an inventory of MP3s by state. As of January 2018,³ 45 states had developed or were in the process of developing MP3s. Some states, however, have chosen not to develop an MP3. For example, Alaska does not have any crops that would benefit from pollinators, and Iowa already has a pollinator protection statute.

MP3 Program is Voluntary

The MP3 program is voluntary, and the EPA does not approve state MP3s or review whether MP3s contain the critical elements. EPA staff said that they do not approve the plans because each state can develop its own MP3 and has complete control regarding the plan's scope, the resources that are allocated and how implementation is conducted. In addition, the EPA does not dictate the contents of the MP3s beyond suggesting critical elements for states to address. EPA staff do encourage states developing MP3s to consider other established state plans as resources. The EPA also encourages states to develop plans that are specifically tailored to the types of pollinated crops and pollination activities in their states.

In addition, the EPA does not provide direct funding for MP3 development and implementation, instead allowing individual states to prioritize their MP3 efforts as part of their larger pesticide work under their FIFRA cooperative agreements (see sidebar).

FIFRA Cooperative Agreements

- Provide state-specific funding to conduct pesticide compliance and enforcement programs.
- Are negotiated between the EPA and states.
- Include required program areas, as well as “pick-list” program areas (see below).

FIFRA “Pick-List” Program Areas

- Are selected by states based on regional and local considerations.
- Include *pollinator protection* as one of 10 possible areas for states to select. The goal of the pollinator protection program area is to ensure that pollinators are protected from adverse effects of pesticide exposure.

The EPA Lacks a Strategy to Use Survey Data to Assess MP3 Results

The EPA does not assess whether MP3s are furthering the OCSPP NPMG goal to “ensure all pollinators are protected from adverse effects of pesticide exposure.” The EPA has chosen not to develop or implement its own set of nationwide outcome measures for MP3 efforts, deciding instead to use measures developed by the PPDC and SFIREG.

In the fall of 2016, the EPA established a workgroup within the PPDC to develop performance metrics that would gauge the efficacy of MP3s. This PPDC workgroup was charged with developing recommendations to evaluate

³ Washington, D.C., is included as a “state” for the purposes of the inventory. The AAPCO expects to complete an updated MP3 inventory in the summer of 2019.

the effectiveness of the MP3s at the national level and create a strategy to communicate the results of these plans to the public. In the fall of 2017, the PPDC workgroup completed its work to develop measures for the state MP3s and presented its results to SFIREG. As of May 2019, SFIREG was working, in consultation with the EPA, to develop a state-level survey to gather information that can be consolidated to draw national conclusions. SFIREG also proposed conducting an annual survey about MP3s beginning in the fall of 2019. However, the EPA has not yet determined how it will use the survey data to evaluate the national impact MP3s or how the EPA will support any needs the survey identifies.

Stakeholders Identify Potential for Increased Scope of MP3s to Address Chronic Exposures

Stakeholders that we interviewed indicated that the outcomes of state-implemented MP3s could be limited because of the focus on acute risks and managed pollinators. The agency’s *Policy to Mitigate the Acute Risk to Bees from Pesticide Products* has a narrower scope compared to the OCSPP NPMG goal to ensure pollinators in general are “protected from adverse effects of pesticide exposure.” Given these differences in scope, the EPA has not clearly described how the state MP3 efforts fit within the overall pollinator protection goal set in the NPMG.

Acute Versus Chronic Exposure

Acute exposure is “the amount of pesticide exposure that an individual insect would receive during a single exposure to a specific pesticide.”

Chronic exposure is “the exposure an individual insect would receive if it experienced repeat exposures to a pesticide over a period of time.”

— The EPA’s *Guidance on Exposure and Effects Testing for Assessing Risks to Bees*

Stakeholders Identify Limitations in MP3 Scope

Three nongovernmental organization representatives indicated that chronic contact with pesticides may have a significant impact on overall pollinator health. Further, these nongovernmental organizations expressed concern that other species of native pollinators are being overlooked because MP3s focus most of their efforts on honey bee protection. According to the stakeholders we interviewed, impacts from pesticide exposures are complex and a threat to pollinator health. Communication and coordination between growers and beekeepers were also identified as limitations, including the following examples:

- In some cases, honey bees may produce, store and consume honey made from pesticide-affected nectar or build combs with pesticide-infused wax.
- If beekeepers with bees under contract are notified of a pesticide application, the beekeeper only has 48 hours to move the bees. As one stakeholder we interviewed said, “It takes special equipment to move them. How do you take [move] them in such a limited amount of time?”

As the EPA continues to support MP3 implementation, the agency needs to determine how and whether it will address ongoing stakeholder concerns.

Scope of EPA Guidance Varies

The agency's *Policy to Mitigate the Acute Risk to Bees from Pesticide Products* focuses on addressing acute, site-specific pesticide risks to contracted pollinator services. However, the FYs 2018–2019 OCSPP NPMG ascribes a broader goal to its national pollination protection focus: ensuring that “all pollinators, including managed pollinators such as honey bees, and native pollinators including Monarch Butterflies, are protected from adverse effects of pesticide exposure” (emphases added).

The inclusive scope of this NPMG goal provides the EPA with leeway to adjust how it will support states as they begin to implement their MP3s. The focus on acute, site-specific pesticide risks and contracted pollinators means that related areas—such as chronic contact with pesticides and native pollinator protection activities identified in the NPMG—may not be receiving an appropriate level of attention.

Conclusion

While the EPA assisted in developing guidance, encouraged state development of MP3s, and consulted with AAPCO and SFIREG as they developed their nationwide survey, the agency has not yet developed strategies to (1) use survey data to assess the programmatic support it provides to states or (2) measure the national impact of MP3s. The EPA also needs to determine what support it will provide for MP3 implementation. Finally, the EPA needs to determine whether it will address additional areas of concern, such as chronic pesticide risks and other limitations identified by stakeholders. By clarifying its future role in MP3 implementation, developing a strategy to use state-gathered data and considering additional risks to pollinators, the EPA's oversight of MP3s will be improved.

Recommendations

We recommend that the Assistant Administrator for Chemical Safety and Pollution Prevention:

1. Develop and implement a strategy that will use Managed Pollinator Protection Plan survey data to measure the national impact of the Managed Pollinator Protection Plans.
2. Using survey data, determine how the EPA will assist states with implementing their Managed Pollinator Protection Plans.

3. Using survey data, fully communicate to states what Managed Pollinator Protection Plan implementation assistance is available from the EPA and how this assistance will be provided.
4. Determine whether and how the EPA will help states address additional areas of concern—such as chronic pesticide risks and other limitations identified by stakeholders—through their Managed Pollinator Protection Plan implementation efforts.
5. Determine how the EPA can use the Managed Pollinator Protection Plan survey results to advance its National Program Manager Guidance goals and its regulatory mission.

Agency Response and OIG Evaluation

The agency has agreed with our recommendations and provided corrective actions and completion dates for all five recommendations.

In its initial response to our draft report, the agency did not provide acceptable corrective actions for three of the five recommendations. After we met with the agency, the OCSPP provided a supplementary response outlining acceptable corrective actions and completion dates for those three recommendations.

The agency's initial response and our comments are in Appendix A. The agency's supplementary response and our comments are in Appendix B.

Status of Recommendations and Potential Monetary Benefits

RECOMMENDATIONS

Rec. No.	Page No.	Subject	Status ¹	Action Official	Planned Completion Date	Potential Monetary Benefits (in \$000s)
1	7	Develop and implement a strategy that will use Managed Pollinator Protection Plan survey data to measure the national impact of the Managed Pollinator Protection Plans	R	Assistant Administrator for Chemical Safety and Pollution Prevention	2/28/20	
2	7	Using survey data, determine how the EPA will assist states with implementing their Managed Pollinator Protection Plans.	R	Assistant Administrator for Chemical Safety and Pollution Prevention	6/30/20	
3	8	Using survey data, fully communicate to states what Managed Pollinator Protection Plan implementation assistance is available from the EPA and how this assistance will be provided.	R	Assistant Administrator for Chemical Safety and Pollution Prevention	6/30/20	
4	8	Determine whether and how the EPA will help states address additional areas of concern—such as chronic pesticide risks and other limitations identified by stakeholders—through their Managed Pollinator Protection Plan implementation efforts.	R	Assistant Administrator for Chemical Safety and Pollution Prevention	6/30/20	
5	8	Determine how the EPA can use the Managed Pollinator Protection Plan survey results to advance its National Program Manager Guidance goals and its regulatory mission.	R	Assistant Administrator for Chemical Safety and Pollution Prevention	6/30/21	

¹ C = Corrective action completed.
R = Recommendation resolved with corrective action pending.
U = Recommendation unresolved with resolution efforts in progress.

Agency's Initial Response to Draft Report




UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JUL 12 2019

OFFICE OF CHEMICAL SAFETY
AND POLLUTION PREVENTION

MEMORANDUM

SUBJECT: Response to Draft Report entitled "EPA Needs to Determine Next Steps in Overseeing State Managed Pollinator Protection Plans."

FROM: Alexandra Dapolito Dunn
Assistant Administrator 

TO: Charles J. Sheehan
Acting Inspector General

This memorandum responds to the Office of Inspector General's (OIG's) Draft Report entitled "EPA Needs to Determine Next Steps in Overseeing State Managed Pollinator Protection Plans," Project No. OA&E-FY19-0029, dated June 12, 2019.

I. General Comments:

The Office of Chemical Safety and Pollution Prevention (OCSPP) appreciates the OIG's work in evaluating how EPA assesses Pollinator Protection Plans (P3s), which are, in part, intended to reduce pesticide exposure to pollinators through timely communication and coordination among key stakeholders.

I am pleased to inform you that OCSPP has reviewed the Draft Report's five recommendations, and agrees, with some caveats, to implement them. Accordingly, this response includes proposed corrective actions and targets for completion of those actions.

OCSPP does, however, have four areas of concern, which are articulated below. Generally, OCSPP wishes to ensure that the OIG's Final Report accurately depicts EPA's legal authority, the types of activities that EPA may use FIFRA-appropriated funding to undertake, and the important role of Tribal Nations as well as States in protecting pollinators.

A. Draft Report’s Use of the Terms “Oversee” and “Voluntary EPA Program”

EPA plays a support role in the development, implementation and measurement of state Managed Pollinator Protection Plans. Nevertheless, throughout the Draft Report, the term “oversee” is used to describe EPA’s role in these efforts. While the Draft Report cites to the 2018 – 2019 OCSPP National Program Manager’s Guidance (NPMG)¹ for EPA Regional Offices, indicating that EPA plays a support role in overseeing the development, implementation and measurement of state Managed Pollinator Protection Plans, the use of the word “oversee” is typically construed by the public to mean supervise in an official capacity. While the NPMG makes use of the term oversee as well, EPA does not have the authority to “oversee” voluntary efforts by States or Tribal Nations to develop pollinator protection plans. In lieu of the terms “oversee” and/or “oversight,” it would be more appropriate to consider that EPA’s role in this initiative relates more directly to “work with” states and Tribal Nations through existing partnerships in “promoting” the development of such plans.

In addition, referring to the overall effort as a “voluntary EPA program” is inaccurate since the effort is not an EPA program *per se* but rather was developed in response to President Obama’s 2014 memorandum entitled “Creating a Strategy to Promote the Health of Honey Bees and Other Pollinators.”²

OIG Response: We defined the term *oversight* in the report and believe the use of *oversight* and *oversee* in the report is consistent with our definition.

We will retain the phrase *voluntary EPA program* in the body of the report, as pollinator protection activities are identified by the EPA in its own guidance as programmatic activities. One of the OCSPP’s FYs 2018–2019 NPMG key programmatic activities is assisting in national, regional and local pollinator protection efforts. The NPMG states that regional offices should “[a]ssist with the development of ... pollinator protection plans,” “[c]onduct outreach and education,” “[i]dentify opportunities to partner with other agencies,” and “[p]romote ... timely responses to all suspected pesticide incidents involving pollinators.”

B. Draft Report’s Characterization of EPA’s Focus as on Acute Versus Chronic Risk, and as Focused on Bees Only Versus All Pollinators

Managed Pollinator Protection Plans (MP3s) are part of a national policy to mitigate a broad range of potential risks to bees from multiple factors (*i.e.*, pests, pathogens, poor nutrition, and pesticides). Pollinator protection plans are responsive to the 2014 Presidential Memorandum cited above and to the “National Strategy for Promoting the Health of Honey Bees and Other Pollinators.”³ Therefore, Managed Pollinator Protection Plans are also discussed in EPA’s “Policy Mitigating Acute Risks to Bees from Pesticide Products.”⁴

¹ FY18-19 OCSPP National Program Manager Guidance (NPMG; <https://www.epa.gov/planandbudget/final-fy-2018-2019-office-chemical-safety-and-pollution-prevention-ocspp-npm-guidance> provides guidance to EPA regions. Pollinator protection is one of the five national priorities.

² <https://obamawhitehouse.archives.gov/the-press-office/2014/06/20/presidential-memorandum-creating-federal-strategy-promote-health-honey-b>

³ <https://obamawhitehouse.archives.gov/sites/default/files/microsites/ostp/Pollinator%20Health%20Strategy%202015.pdf>

⁴ <https://www.regulations.gov/document?D=EPA-HQ-OPP-2014-0818-0477>

Although the Draft Report states that unnamed stakeholders have concerns that EPA focuses only on acute risks, please be assured that EPA assesses and mitigates both acute and chronic risks. The Agency's 2011 "Interim Guidance on Honey Bee Data Requirements", the 2012 "White Paper in Support of the Proposed Risk Assessment Process for Bees,"⁵ the 2014 "Guidance on Assessing Pesticide Risks to Bees,"⁶ and the 2016 "Guidance on Exposure and Effects Testing for Assessing Risks to Bees"⁷ all indicate that both acute and chronic risks are evaluated through a combination of laboratory-based studies of individual adult and larval bees along with semi- and full-field colony-level studies, as appropriate.

Furthermore, while the Draft Report indicates that EPA works toward the reduction of unwanted pesticide exposure to managed pollinators, implying native pollinators are somehow being overlooked, EPA's efforts are broader than described. All pesticide registrations must consider adverse effects on non-target organisms, such as native pollinators, as part of EPA's review. FIFRA section 3(a) stipulates that the general standard for pesticide registration is a finding that the pesticide will not cause "unreasonable adverse effects to the environment." This is specifically defined by FIFRA section 2(bb) as:

- (1) any unreasonable risk to man or the environment, taking into account the economic, social, and environmental costs and benefits of the use of any pesticide, or
- (2) a human dietary risk from residues that result from a use of a pesticide in or on any food inconsistent with the standard under section 408 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a).

Therefore, EPA efforts to regulate pesticides reflect the statutory mandate that the use of a compound will not result in unreasonable acute and/or chronic risk to the environment. It is possible that the references to the MP3 program in the EPA *Policy Mitigating Acute Risk to Bees from Pesticide Products*⁸ which describes a mitigation for alleviating acute risk to managed bees may be the source of the confusion regarding the focus on acute risk. However, EPA has expended considerable resources to ensure that its process for evaluating acute and chronic risks to bees reflects the best available science.

Consistent with FIFRA, the extent to which the use of a compound is limited depends on a balance between the likelihood of an adverse effects (*i.e.*, risk) to non-target organisms from exposure resulting from the registered use and the benefits afforded from such use. Therefore, FIFRA itself does not provide separate authority to reduce unwanted pesticide exposure; instead it defines the process for evaluating appropriate mitigation of potential or identified risks. Although the Acute Risk Mitigation Policy⁹ identifies options for reducing acute exposure to pesticides, EPA meets its statutory responsibility to mitigate both acute and chronic risks, through a combination of advisory statements and compulsory restrictions on labels. However, EPA has also encouraged States and Tribes to work with stakeholders at the local level to develop additional processes that can foster increased communication, cooperation and collaboration between stakeholders that could reduce potential exposure to pesticides while also

⁵ https://www.cdpr.ca.gov/docs/emon/surfwtpr/presentations/epa_whitepaper.pdf

⁶ https://www.epa.gov/sites/production/files/2014-06/documents/pollinator_risk_assessment_guidance_06_19_14.pdf

⁷ <https://www.epa.gov/sites/production/files/2016-07/documents/guidance-exposure-effects-testing-assessing-risks-bees.pdf>

⁸ <https://www.epa.gov/pollinator-protection/policy-mitigating-acute-risk-bees-pesticide-products>

⁹ <https://www.regulations.gov/document?D=EPA-HQ-OPP-2014-0818-0477>

addressing other factors that have been identified as influencing bee health (e.g., available pollinator habitat).

OIG Response: In the EPA’s *Policy to Mitigate the Acute Risk to Bees from Pesticide Products*, the EPA is generally promoting the development of state and tribal MP3s that address the use of acutely toxic pesticides at sites that are not under contract pollination services but that are where bees are located at or near the target crop. While EPA policy does not limit the potential scope of MP3s, stakeholders were concerned that the agency’s continued focus on acute risk mitigation in MP3s does not encourage states to expand their MP3s to protect species other than honey bees or to address risks beyond acute pesticide exposure.

C. Draft Report’s Omission of Tribal Nations’ MP3s:

While the Draft Report discusses state Managed Pollinator Protection Plans, efforts to develop pollinator protection plans are not limited to the States but include Tribal Nations as well. This omission in the Draft Report appears to lessen the efforts of Tribal Nations. Also, while many States have focused on managed pollinators, Tribal Nations have tended to focus on native plants and the insect pollinators associated with those plant communities. However, neither States nor Tribes are obligated to develop pollinator protection plans. More generally, and importantly, parties are at liberty to include whatever elements they feel are important and appropriate to address their local needs/circumstances.

OIG Response: As stated under Scope and Methodology, “The scope of this audit focuses specifically on MP3s developed and implemented by states. While tribes also can develop and implement MP3s, they do not fall within the scope of this audit.”

D. Clarification of EPA’s Roles and Responsibilities to Assess Managed Pollinator Protection Plans:

In response to the 2014 Presidential Memo and the 2015 National Strategy, OCSPP has worked to engage State and Tribal agencies in developing pollinator protection plans as a means of mitigating the risk of pesticides to bees and other managed pollinators. To evaluate the progress of pollinator protection plans, EPA proposed a metric in the National Strategy, *i.e.*, to document the number of plans under development that address the need for improved communication between growers/applicators and beekeepers with respect to pesticide applications, and to document the number of such plans implemented. To that end, OCSPP has monitored the Association of American Pesticide Control Officials (AAPCO) state MP3 inventory¹⁰ to keep abreast of the number of state pollinator protection plans and has engaged Tribal leaders through the Tribal Pesticide Program Council (TPPC) to understand progress by Tribal Nations.

¹⁰ <https://aapco.org/2015/07/01/current-topics/>

While EPA has regulatory authority and specific initiatives under FIFRA to support goals such as assessing and mitigating acute and chronic pesticide exposure to bees, OPP has no regulatory authority to impose and/or coordinate state/tribal efforts to develop/implement pollinator protection plans. EPA has endeavored to respect the autonomy of the States and Tribal Nations to develop MP3s and does not want to give any appearance of interference and/or manipulation of these processes. OPP and Regional Offices remain committed to providing input on various components of pollinator protection plans when requested by States and Tribal Nations. OCSPP believes that the extent to which pollinator protection plans will be effective may in large part be influenced by the extent to which stakeholders believe that their concerns have been balanced/addressed.

As part of the National Strategy, EPA committed to collaborate with State and Tribal regulatory partners to identify the necessary elements that the Agency could use to further evaluate pollinator protection plans developed by states/tribes. OCSPP has worked with AAPCO, the TPPC, the State FIFRA Issues, Research and Evaluation Group (SFIREG), the National Association of State Departments of Agriculture (NASDA) and OCSPP's Federal Advisory Committees (*i.e.*, Pesticide Program Dialogue Committee; PPDC) along with other stakeholder groups (*e.g.*, Honey Bee Health Coalition; HBHC) to identify possible elements of such plans. In November 2016, EPA tasked the PPDC to identify a means through which to evaluate: (1) the effectiveness of pollinator protection plans at a national level; (2) how well the plans are doing overall; and, (3) how to communicate the effectiveness of the plans to the public. In 2017, the PPDC provided its recommendations to EPA to utilize existing mechanisms through which AAPCO/SFIREG will collect survey data. Contrary to what is reported in the Draft Report, OCSPP did not "help AAPCO/SFIREG develop" their survey; rather, OCSPP provided comment on the survey instrument at the request of state lead agencies. Although the Draft Report recommends that OCSPP devise a plan to assess the States' MP3s, the PPDC has already provided recommendations for evaluating such plans. EPA intends to consider the information to be provided from the survey to the extent to which resources and statutory authority permit. However, given that the plans are voluntary, and that outside the pooled grant opportunity under the NPMG, EPA has no funding to support the development/implementation of MP3 or pollinator protection plans in general.

OIG Response: We have revised the report to refer to the EPA's interaction with AAPCO/SFIREG regarding the development of the pollinator survey as a *consultation*.

II. OCSPP's Response to the Recommendations:

With respect to the specific recommendations contained within the OIG report, OCSPP proposes the following corrective actions:

Recommendation 1: Develop and implement a strategy that will use Managed Pollinator Protection Plan survey data to measure the national impact of the Managed Pollinator Protection Plans.

Proposed Corrective Action 1: OCSPP accepts this recommendation and will develop and implement a strategy utilizing AAPCO/SFIREG survey data as a line of evidence in understanding how stakeholders are adopting measures focused on pollinator protection and sustainability. OCSPP anticipates that this task can be completed by February 2020.
Target Completion Date: February 2020

OIG Response: The agency agreed with our recommendation, but the proposed corrective action does not meet the intent of recommendation. Specifically, the EPA does not identify a strategy to use the survey data to measure the national impact of MP3s. Instead, the proposed corrective action indicates that the EPA plans to use the survey information to understand how individual states/stakeholders are developing their own measures to track individual MP3 actions. We consider Recommendation 1 unresolved with resolution efforts in progress.

Recommendation 2: Using survey data, determine how the EPA will assist states with implementing their Managed Pollinator Protection Plans.

Proposed Corrective Action 2: OCSPP accepts this recommendation and plans to interact with and engage States and Tribal Nations that choose to develop pollinator protection programs. OCSPP projects that this task can be completed in June 2020.
Target Completion Date: June 2020

OIG Response: The agency concurred with our recommendation and provided an acceptable planned corrective action and completion date. The corrective action meets the intent of our recommendation because the agency proposes to engage with and assist states and tribal nations that choose to develop MP3s. We consider Recommendation 2 resolved with corrective action pending.

Recommendation 3: Using survey data, fully communicate to states what Managed Pollinator Protection Plan implementation assistance is available from the EPA and how this assistance will be provided.

Proposed Corrective Action 3: OCSPP accepts this recommendation and anticipates maintaining pollinator protection and survey results as a standing agenda item in discussions with the State FIFRA Issues Research and Evaluation Group (SFIREG) and the TPPC. OCSPP projects this task can be completed in June 2020.
Target Completion Date: June 2020

OIG Response: The agency concurred with our recommendation, but the proposed corrective action does not meet the intent of the recommendation. Specifically, the EPA does not commit to fully communicating to states what MP3 assistance options are available, nor does the EPA outline how this information and assistance will be provided. Instead the agency's response indicates that the EPA anticipates maintaining MP3 survey results as a standing agenda item in discussions. We consider Recommendation 3 unresolved with resolution efforts in progress.

Recommendation 4: Determine whether and how the EPA will help states address additional areas of concern—such as chronic pesticide risks and other limitations identified by stakeholders—through their Managed Pollinator Protection Plan implementation efforts.

Proposed Corrective Action 4: OCSPP accepts this recommendation to determine whether and how the EPA will help States and Tribal Nations that choose to develop pollinator protection programs address additional areas of concern (e.g., chronic pesticide risks), while respecting the boundaries in which the EPA works with States/Tribal Nations to promote these voluntary plans.

Target Completion Date: June 2020

OIG Response: The agency concurred with our recommendation and provided an acceptable planned corrective action and completion date. We consider Recommendation 4 resolved with corrective action pending.

Recommendation 5: Determine how the EPA can use the Managed Pollinator Protection Plan survey results to advance its National Program Manager Guidance goals and its regulatory mission.

Proposed Corrective Action 5: OCSPP accepts the recommendation to utilize survey results to advance NPMG¹¹ goals, with the caveat that it is premature to speculate on how EPA can use survey data until there is a clearer understanding of what those data will consist.

Target Completion Date: June 2021.

OIG Response: The agency concurred with our recommendation, but the proposed corrective action does not meet the intent of the recommendation. Specifically, the EPA does not commit to determining how it can use the results of the survey data to update and advance the NPMG goals. Instead, the EPA caveats its response by saying that “it is premature to speculate on how EPA can use the survey data.” We consider Recommendation 5 unresolved with resolution efforts in progress.

cc: All OCSPP DAAs
Program Office OD, DOD
Jeff Harris, OIG
Janet L. Weiner, OCSPP Audit Liaison
OPP Program Office Audit Liaison
Annette Morant, OCFO AFC

¹¹ <https://www.epa.gov/planandbudget/final-fy-2018-2019-office-chemical-safety-and-pollution-prevention-ocspp-npm-guidance>

Agency's Supplementary Response to Draft Report



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

AUG 07 2019

OFFICE OF CHEMICAL SAFETY
AND POLLUTION PREVENTION

MEMORANDUM

SUBJECT: Response to Draft Report entitled "EPA Needs to Determine Next Steps in Overseeing State Managed Pollinator Protection Plans"

FROM: Alexandra Dapolito Dunn
Assistant Administrator

A handwritten signature in blue ink, appearing to read "Alexandra Dapolito Dunn", written over the printed name.

TO: Charles J. Sheehan
Acting Inspector General

This memorandum seeks to resolve Recommendations 1, 3, and 5 to the Office of Inspector General's (OIG's) Draft Report entitled "EPA Needs to Determine Next Steps in Overseeing State Managed Pollinator Protection Plans," Project No. OA&E-FY19-0029, dated June 12, 2019. As a result of a collaborative effort with the OIG, culminating in an OIG/OCSPP management agreement obtained on August 5, 2019, OCSPP is proposing to revise its corrective action plans as described below.

OCSPP's Response to the Unresolved Recommendations:

Recommendation 1: Develop and implement a strategy that will use Managed Pollinator Protection Plan survey data to measure the national impact of the Managed Pollinator Protection Plans.

Proposed Corrective Action 1: The Office of Chemical Safety and Pollution Prevention (OCSPP) accepts this recommendation and will develop and implement a strategy that utilizes the AAPCO/SFIREG survey data to measure the effectiveness of state Managed Pollinator Protection Plans from a national perspective. OCSPP will develop and implement this strategy by February 2020.

Target Completion Date: February 28, 2020

OIG Response: The agency concurred with our recommendation and provided a revised planned corrective action and completion date. We consider Recommendation 1 resolved with corrective action pending.

Recommendation 3: Using survey data, fully communicate to states what Managed Pollinator Protection Plan implementation assistance is available from the EPA and how this assistance will be provided.

Proposed Corrective Action 3: OCSPP accepts this recommendation to communicate to states what Managed Pollinator Protection Plan implementation assistance is available from EPA and how this assistance is to be provided in the future. To accomplish this goal, OCSPP will develop a presentation on the results of the AAPCO/SFIREG survey and on MP3 implementation assistance for states and will deliver that presentation to SFIREG by June 2020. In addition, OCSPP will continue to communicate regularly with states on these issues and will maintain pollinator protection as a standing agenda item in discussions with the SFIREG.

Target Completion Date: June 30, 2020

OIG Response: The agency concurred with our recommendation and provided a revised planned corrective action and completion date. We consider Recommendation 3 resolved with corrective action pending.

Recommendation 5: Determine how the EPA can use the Managed Pollinator Protection Plan survey results to advance its National Program Manager Guidance goals and its regulatory mission.

Proposed Corrective Action 5: OCSPP accepts the recommendation to utilize the AAPCO/SFIREG survey results to advance the program's National Program Management Goals (NPMG¹). OCSPP will use the information provided from the AAPCO/SFIREG survey to revise applicable NPMGs at the next available opportunity in the cycle of NPMG planning. OCSPP projects this task will be completed in June 2021.

Target Completion Date: June 30, 2021.

OIG Response: The agency concurred with our recommendation and provided a revised planned corrective action and completion date. We consider Recommendation 5 resolved with corrective action pending.

cc: All OCSPP DAAs
Richard Keigwin, OPP
Ed Messina, OPP
Wynne Miller, OPP

¹ <https://www.epa.gov/planandbudget/final-fy-2018-2019-office-chemical-safety-and-pollution-prevention-ocspp-npm-guidance>

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