

ENVIRONMENTAL REGULATION

FEDERAL INSECTICIDE, RODENTICIDE AND FUNGICIDE ACT & ENDANGERED SPECIES ACT

ISSUE

As farmers face growing economic and environmental pressures such as new and growing insect, pest and crop disease threats, military conflicts and global supply chain inefficiencies, it is more imperative than ever to ensure farmers and other pesticide user groups maintain access to safe and effective products. The ability of the U.S. Environmental Protection Agency to execute a robust pesticide registration, registration review, and, when applicable, Endangered Species Act consultation process based in the best available science is a critical step in achieving this goal.



As regulatory partners with EPA, the National Association of State Departments of Agriculture stands ready to assist EPA in ensuring U.S. farmers and public health officials have access to a broad range of technologies and pesticides, reviewed and approved in a scientifically sound and transparent manner.

BACKGROUND

PROTECTING ENDANGERED SPECIES AND PESTICIDE REGULATION

The goal of the EPA's Endangered Species Protection Program is to carry out its responsibilities under the Federal Insecticide, Fungicide, and Rodenticide Act in compliance with the ESA, without placing unnecessary burden on agriculture and other pesticide users. EPA is responsible for reviewing information and data to determine whether a pesticide product can be registered for a particular use. As part of that determination, EPA decides if listed species or their designated critical habitat may be affected by use of the product. All pesticide products that EPA determines "may affect" a listed species or its designated critical habitat may be subject to the Endangered Species Protection Program.

EPA has stated that the agency faces several challenges in implementing timely and effective strategies that protect listed species in a way that is both practical for pesticide users to implement and timely to protect species. In 2021, prompted by the escalating challenges of fulfilling its ESA obligations for pesticide decisions, EPA began developing a comprehensive, long-term approach to meeting those obligations. The outcome of the EPA's outreach on this topic is a workplan reflecting EPA's experiences, assessing its future Endangered Species Act workload and describing improvements EPA will pursue or consider pursuing. The EPA has acknowledged the need for a holistic approach to protecting species and regulating pesticides through the ESA and FIFRA. NASDA supports safeguarding endangered species for a healthy environment and ensuring farmers and public health agencies have the tools needed to feed and protect everyone.



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RECENT REGULATORY ACTION

Informed by EPA's past efforts and by its recent discussions with stakeholders, the ESA-FIFRA Federal Interagency Working Group reconvened in 2021 to hold a series of internal and external meetings on how the Agency could address its ESA obligations. These included quarterly ESA-FIFRA meetings with environmental and agricultural stakeholders and a widely attended January 2022 public listening session on improving the ESA-FIFRA process.

The outcome of these dialogues is a workplan, [Balancing Wildlife Protection and Responsible Pesticide Use](#), which reflects EPA's experiences, assesses its future ESA workload and describes administrative and other improvements that EPA will pursue or consider pursuing. The workplan reflects the agency's most comprehensive thinking to date on how to create a sustainable ESA-FIFRA program.

In addition to the workplan, the EPA has taken steps to meet ESA obligations when registering new pesticides, incorporating mitigation strategies earlier in the FIFRA process, and committing to the revitalization of the ESA-FIFRA Interagency Working Group.

On November 16, 2022, EPA announced an [ESA Workplan Update](#) that details how EPA will pursue protections for nontarget species, including listed species, earlier in the process for pesticide registration review and other FIFRA actions.

NASDA POLICY

- NASDA supports the science-based and comprehensive regulatory framework FIFRA provides to pesticide-related environmental and public health protection.
- NASDA supports state primacy in the enforcement of pesticide activities under FIFRA.
- NASDA supports the original intent of Congress that FIFRA be the primary federal statute under which pesticide registration and use is regulated, and pesticide uses reviewed and registered under FIFRA should not be subject to additional requirements (including permit requirements) under other federal statutes.
- In situations where requirements of other environmental statutes overlap with FIFRA, NASDA supports incorporating those requirements into the FIFRA registration process in a manner that is science-based, transparent and allows for the full examination of the risks and benefits of the proposed action.

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