

# PESTICIDE REGULATIONS

Predictable, enforceable, science-based pesticide regulatory frameworks are essential to achieving food security, minimizing impacts to the environment and endangered species, and meeting agricultural sustainability goals. NASDA encourages the U.S. EPA to adopt the best available science and adhere to FIFRA's risk-benefit mandate when registering new pesticide products and re-registering existing pesticide products.

With respect to the Endangered Species Act Workplan, NASDA encourages the EPA to develop a robust compliance strategy that meaningfully incorporates concerns raised by state departments of agriculture about its current enforceability challenges.



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regulations policy work.*



## BACKGROUND

### EPA AND ENDANGERED SPECIES ACT BACKGROUND

Under the Federal Insecticide, Fungicide, and Rodenticide Act, the EPA is required to assess a wide variety of potential human health and environmental effects when considering a pesticide product for registration or re-registration. Under EPA's Endangered Species Protection Program, the Agency must also evaluate if the pesticide "may affect" a listed species or designated critical habitat, as determined by the U.S. Fish & Wildlife Service under the Endangered Species Act. If so, a lengthy and intensive consultation process between EPA and U.S. Fish and Wildlife Service is triggered.

EPA has struggled to keep up with its increasingly demanding ESA workload for years. Consequently, EPA has faced escalating, often successful, legal challenges alleging that the EPA has failed to comply with its FIFRA obligations with respect to ESA. In 2022, in response to these challenges, EPA published "Balancing Wildlife Protection and Responsible Pesticide Use," known as the ESA Workplan.

The ESA Workplan constitutes EPA's efforts to develop a systematic, holistic approach to bringing its pesticide regulations under ESA-FIFRA compliance. To date, under the ESA Workplan, EPA has published a final Herbicide Strategy, a draft Insecticide Strategy, a final Rodenticide Biological Evaluation, and a final Vulnerable Species Pilot Project. A draft Fungicide Strategy is also expected in 2025.

### NASDA INVOLVEMENT

In 43 states and Puerto Rico, the state department of agriculture is a co-regulatory partner with EPA and is responsible for administering, implementing and enforcing the production, labeling, distribution, sale, use and disposal of pesticides under FIFRA.

As co-regulators, NASDA represents a uniquely critical perspective in the pesticide regulatory space. Our priorities and recommendations are grounded in a commitment to developing regulatory policies that are science-based, transparent and enforceable.

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## REGULATORY ACTION

NASDA is grateful for the significant time and energy EPA has dedicated to bringing its pesticide regulations into ESA-FIFRA compliance and we respect the difficulty of designing a novel and holistic approach to achieve this goal.

Nevertheless, as identified in submitted public comments on the draft versions of the published strategies, NASDA remains deeply concerned that the proposed mitigation measures are overly restrictive and lack transparency. Compliance will be prohibitively costly for growers, reasonable enforcement will be unworkable for state lead agencies, and there are insufficient resources for training and education, among many other issues.

- [NASDA Comments on Draft Herbicide Strategy](#)
- [NASDA Comments on Draft Insecticide Strategy](#)
- [NASDA Comments on Draft Vulnerable Listed Species Pilot Project](#)

## NASDA POLICY

Pesticides are an essential component within many agricultural and horticultural crop production systems that result in the production of a safe, abundant and affordable food supply. Pesticides are also critical tools in a variety of public health activities. NASDA supports the scientifically-sound development, review, registration and re-registration of crop protection technologies and uses to enable growers to produce our nation's food, fiber and fuel. In situations where requirements of other environmental statutes overlap with FIFRA, NASDA supports incorporating those requirements into the FIFRA registration process in a science-based, transparent manner that allows for the complete examination of the risks and benefits of the proposed action.

NASDA believes EPA and U.S. Fish and Wildlife Service must establish a collaborative, transparent and streamlined consultation process for pesticide registrations. The process should include clearly communicated criteria between EPA and U.S. Fish and Wildlife Service, be based on the best available science and eliminate any duplicative steps. Any decisions made between the agencies should not place unreasonable requirements on registrants and farmers and should include adequate time for implementation and robust opportunities for input from state departments of agriculture and other stakeholders.

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