



Endangered Species Activities: Office of Pesticide Programs Overview

March 2024

Brian Anderson

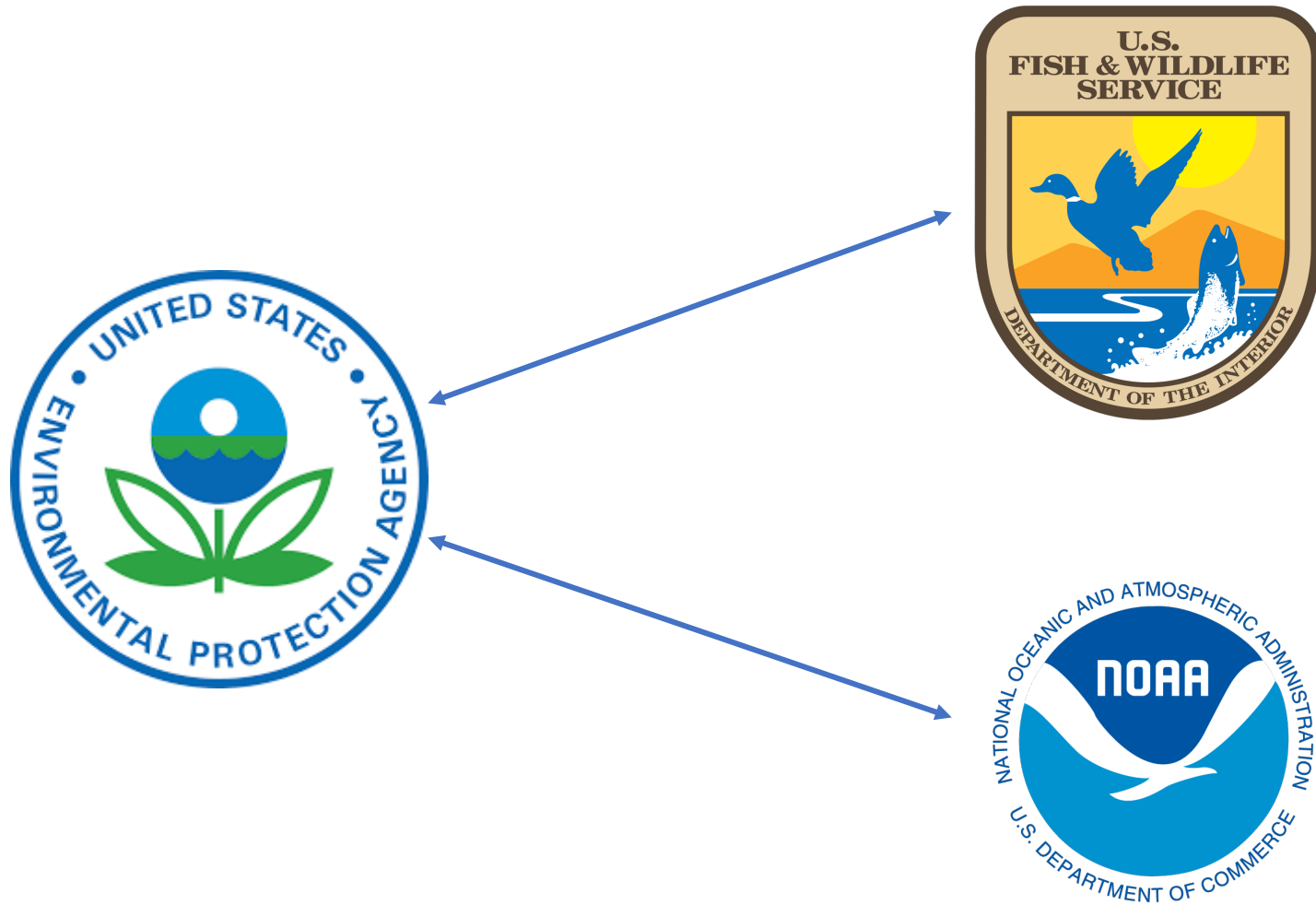
Associate Director, Environmental Fate and Effects Division,
Office of Pesticide Programs

Endangered Species Act

- Can't **jeopardize** species existence
- Can't destroy or adversely modify designated **critical habitat**
- Federal agencies must **consult** if an action may affect a listed species or its designated critical habitat



ESA Applies to Many FIFRA Actions



“...the EPA may not avoid compliance with the ESA...”

Migrant Clinicians Network vs EPA. Dec 2023, 9th Circuit

It’s déjà vu all over again. EPA comes before this court once more because of **its failure to abide by the law**....EPA cannot flout the will of Congress—and of the people—just because it thinks it is too busy or understaffed.

Center for Food Safety v. Regan, Dec. 2022, 9th Circuit

“Before registering a pesticide, EPA must consult with the statutorily specified agencies that have expertise on risks to species’ survival. **But for decades EPA routinely skipped that step when it registered pesticides**....”

Center for Biological Diversity v. EPA, Dec. 2022, DC Circuit

EPA has long had a **fraught relationship with the ESA**. It has made a habit of registering pesticides without making the required effects determination.

In re: Center for Biological Diversity and Center for Food Safety, Nov. 2022, DC Circuit

April 2022 Workplan and November 2022 Update

- Prioritize FIFRA actions for ESA compliance
- Early mitigation
- More efficient approaches



Balancing Wildlife Protection and Responsible Pesticide Use: How EPA's Pesticide Program Will Meet its Endangered Species Act Obligations 2022



www.epa.gov/endangered-species

Select Ongoing and Upcoming ESA Activities

**Late 2023
(completed)**

DRAFT **rodenticide** BE and mitigation strategy
Draft **Herbicide strategy** and vulnerable species public comments
DRAFT **acetamiprid** and **dinotefuran** BEs
Final **Enlist** BiOp

Mid 2024

Finalize **herbicide strategy** and begin to inform registration and registration review decisions
Release DRAFT **insecticide strategy** for public comment
DRAFT online **mitigation menu**

2025 and beyond

Finalize **insecticide** strategy and begin to inform registration and registration review decisions
Develop **fungicide strategy**
Continue revising **PULAs** for ESA mitigations

Final **methomyl** and **carbaryl** BiOps
Hawaii workshop
Mitigation workshop
Outreach on refining pesticide use limitation areas (**PULAs**) and begin process of revising PULAs
Updated **Enlist** mitigation requirements per BiOp
Implement NMFS BiOp on 2 OP insecticides

Early 2024

Final BEs for **acetamiprid** and **dinotefuran**
Draft BEs on **benzovindiflupyr** and **bicyclopyrone**

Determine if **vulnerable species** pilot should include additional species and provide additional information on the pilot
Draft **Hawaii Strategy** for public comment
FINAL **rodenticide** BE and mitigation strategy

Late 2024/Early 2025

Ongoing and Upcoming Activities

- **Upcoming Biological Evaluations**

- Acetamiprid and Dinotefuran (**Draft 2023 / Final Nov 2024**)
- Bicyclopyrone and Benzovindiflupyr (**Draft Sept 2024; Final Sept 2025**)

- **Biological Opinions**

- Final BiOp from FWS on Enlist and Enlist Duo (2023) and Implement ESA bulletins (**Jan 2024, complete**)
- Final BiOps from NMFS on methomyl and carbaryl (**Feb 2024**)
- Draft BiOps from FWS on methomyl and carbaryl (**expected 2024**)
- Implement final BiOp from NMFS on diazinon and malathion (**Spring 2024**)

Ongoing and Upcoming Activities

- **Herbicide Strategy:**
 - Released draft strategy for public comment (**2023, completed**)
 - Release FINAL strategy (**Summer 2024**)
 - Begin using strategy to inform registration and registration review process (each decision generally subject to public comments per standard FIFRA processes) (**2024**)
- **Rodenticide BE and strategy:**
 - Released Draft BE and mitigation strategy for public comment (**Closes Feb 13, 2024**)
 - Final BE and strategy (**Nov 2024**)
 - Begin using strategy to inform the FIFRA registration review process (on and after **2025 across 11 rodenticides**)

Ongoing and Upcoming Activities

- **Vulnerable species pilot:**
 - Release draft white paper for public comment (**2023, complete**)
 - Release update summarizing public comment themes and EPA's current thoughts on incorporating public comments (**2023, complete**)
 - Provide update on pilot and begin using it to inform FIFRA processes (**Late 2024**)
 - Determine whether and how EPA could expand the approach used in the VSP to other selected vulnerable species (**Late 2024**)
- **Updating PULAs to reflect smaller areas most relevant for conservation:**
 - PULA = pesticide use limitation area, which is the location where geographically specific locations are needed to protect endangered species
 - Partner with University of Georgia, FWS, and USDA to develop draft process, engage with stakeholders to refine PULAs, begin receiving revised PULAs for use in ESA mitigation processes (**2024**)

Ongoing and Upcoming Activities

- **On-Line Mitigation Menu:**
 - Intent is to allow EPA to more efficiently incorporate new information, new science, and any necessary changes to mitigation options to labels
 - Webinar on draft (**2024**)
 - Update menu (**2024**)
- **Insecticide Strategy**
 - Develop strategy informed by public comments from herbicide strategy and vulnerable species pilot
 - Release insecticide strategy for public comment (**Mid 2024**)
 - Incorporate comments and finalize strategy (**Early 2025**)
 - Begin using strategy to inform FIFRA processes (**2025**)

Coordination

First Quarter Calendar Year 2024

- Outreach with states:
 - NASDA, SFIREG, AAPCO, individual regions as requested
- Workshop to discuss role of offsets in ESA mitigations (CLA lead)
- Hawaii strategy workshop
- Interagency Working Group roundtable
 - Response to congressional request; Input from pesticide users, environmental groups, and other organizations that have engaged on ESA pesticide issues
- Continued coordination with USDA on FIFRA/ESA connection with conservation programs
- Pesticide Stewardship Alliance (TPSA)
- North American Invasive Species Management Association, National Alliance of Independent Crop Consultations; American Mosquito Control, Southwest Regional Fruit and Vegetable Conference
- Regular meetings with agricultural stakeholders, environmental groups, and regulated community

Thank You!

