



# **Update on EPA's Endangered Species and Pesticides Initiatives**

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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, 9<sup>th</sup> 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....”**

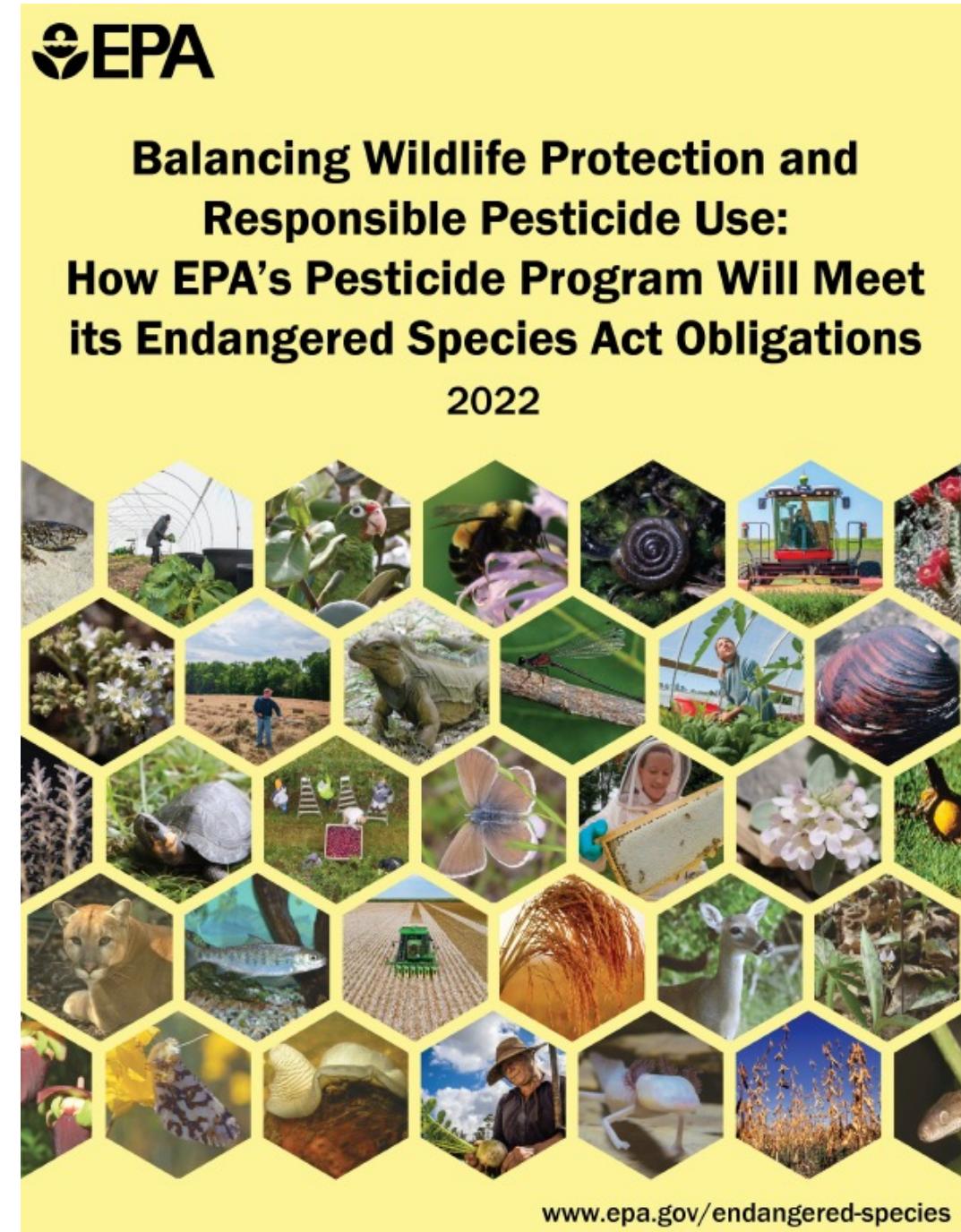
Center for Biological Diversity v. EPA, Dec. 2022, DC Circuit

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





# EPA Resolves Longstanding Litigation to Protect Endangered Species, Ensure Pesticides That Feed and Fuel America Remain Available

## Released on September 14, 2023

This week, the U.S. Department of Justice, on behalf of the U.S. Environmental Protection Agency (EPA) resolved longstanding litigation covering over 1,000 pesticide products, allowing EPA to fulfill its obligations to protect endangered species while conducting reviews and approvals of pesticides in a safe and protective manner.

In 2011, the Center for Biological Diversity and Pesticide Action Network (Plaintiffs) filed a complaint in Federal Court in California against EPA alleging that it was violating the Endangered Species Act (ESA) when it registered or reevaluated the registration of 382 pesticide active ingredients, which was ultimately reduced to 35 active ingredients covering over 1,000 pesticide

# Vulnerable Species Pilot Project



American burying beetle



Attwater's greater prairie-chicken



Buena Vista Lake ornate shrew



Palmate-bracted bird's beak



Poweshiek skipperling



Rusty patched bumble bee



Four freshwater mussels



Leedy's roseroot



Madison Cave isopod



Seven Lake Wales Ridge plants



Taylor's checkerspot



Two vernal pool fairy shrimp



Mead's milkweed



Okeechobee gourd



Ozark cavefish



White Bluffs bladderpod



Wyoming toad

# Themes That Could Result In Mitigation Changes

- **Pesticide Use Limitation Areas (PULAs):** EPA will refine PULAs for many species
- **Scope:** Clarify the scope of the VSP for non-agricultural uses
- **Exemptions:** Clarify exemptions to mitigation and whether additional exemptions are needed
- **Mitigations:** Revise some of the proposed mitigation and include additional mitigation options specific to non-agricultural uses and specialty crops
- **Pilot Species:** Revisit how EPA selected the pilot vulnerable species
- **More Risk Based:** Account for how different pesticides impact species differently



# Vulnerable Species Next Steps

- December 2023: Provided update to public on VSP
- By September 2024: Provide additional updates on VSP, including plan for potential expansion to other species.



# Draft Herbicide Strategy

- A **framework** to identify mitigation for over 900 listed species affected by **agricultural** uses of **conventional herbicides**.
- Addresses many but not all effects.

## 1. Mitigations needed?

- Assess impacts to species.

## 2. Identify Mitigations

- Runoff, erosion, and drift mitigations
- Prevent likelihood of “jeopardy” and minimize “take”
- Specific to use and rate

## 3. Implementation

- Mitigation, spatial extent
- Allows for emerging technologies
- Programmatic

# Herbicide Strategy- Next Steps

- Team is currently reviewing and summarizing comments.
- Comments similar in themes to what we heard on the vulnerable species pilot
- Expect to issue a summary soon
- Final strategy extended to August 2024

# Hawaii Workshop

- To discuss information gathered to date on:
  - Pesticide uses in Hawaii
  - Application methods, current mitigations, best management practices, and conservation approaches
- Provide individual input regarding mitigation framework
- Fill in data gaps



Nene, Kathleen Misajon, NPS

# Goals of Hawaii Strategy

- Draft mitigation framework to reduce potential population level impacts from pesticide uses in Hawaii
  - Agricultural and many non-agricultural use sites
  - Considering potential impacts to ~500 listed species
  - Identify species that may have on-site exposure to pesticides
  - Minimize offsite exposure from spray drift, runoff, or erosion
  - Species covered by FWS
- Improve ESA efforts by making them more timely, efficient, consistent, and predictable
- Type and level of mitigation would be specific to the chemical, use site, and application method to address potential impacts to listed species and critical habitats



Taro, Regina Hidano, USDA NASS

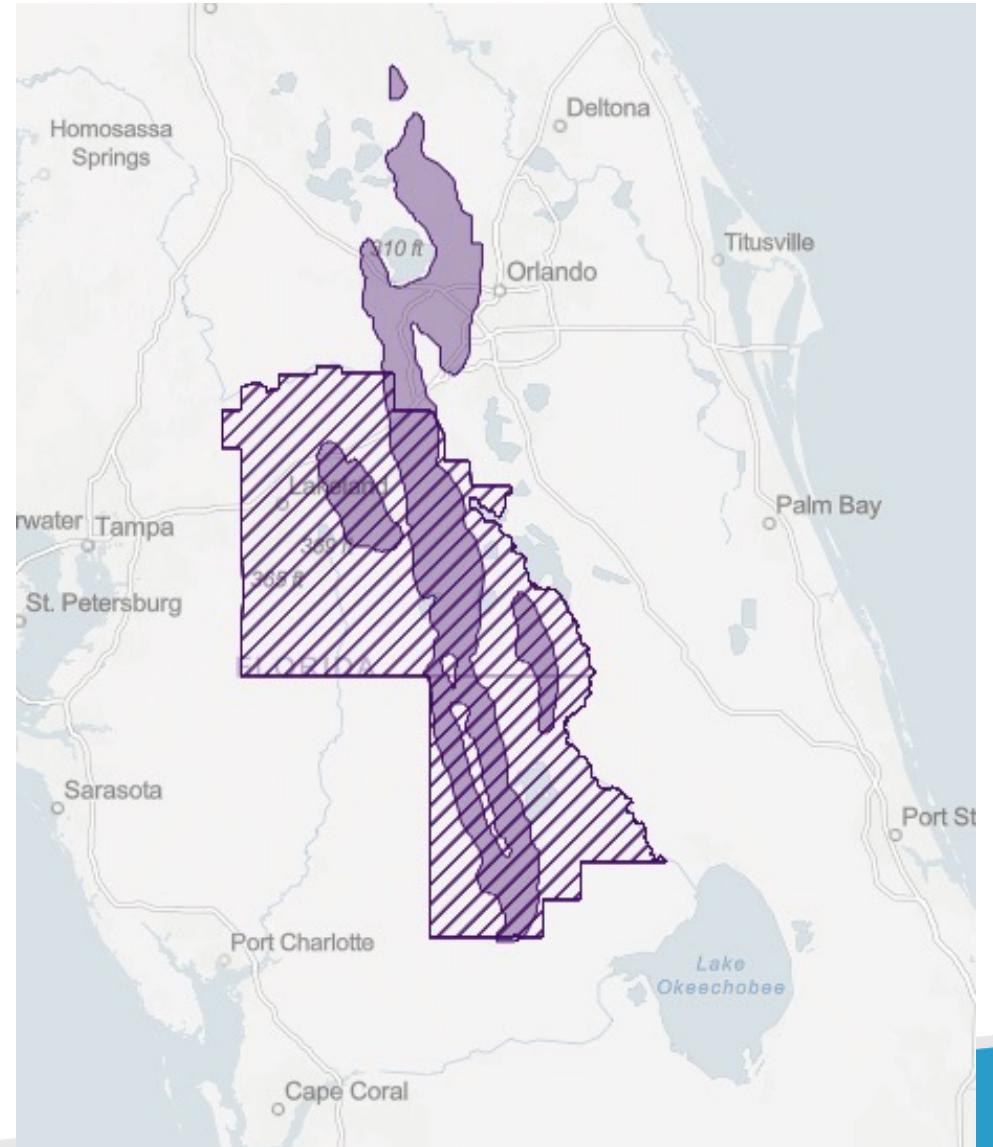
# Next Steps

- Additional outreach/follow-up
  - To help fill gaps or follow-up on next steps
  - Review materials shared by Workshop attendees
- Mitigations:
  - Process to formalize practices occurring on the ground (BMPs, surveying, application methods/equipment etc.)
  - Identify PULA species
  - Options for outreach and education
- Updates to Strategy
- Release draft Strategy for comment (date TBD)



# Mapping Refinements

- Pesticide use limitation area (PULA)
  - Species habitat/locations relevant to pesticide labeling and species conservation
- PULA  Species Range
- Developing and testing draft process for refining PULAs
- **Goals:** Explicit mapping of areas important for species conservation



# Other Strategies

- **Rodenticide strategy** – Covers 11 rodenticides
  - Draft strategy released on 12/1/23
  - Final strategy by 11/2024
- **Insecticide strategy**
  - Draft strategy by 7/30/2024 – currently working on it
  - Final strategy by 3/31/2025
- **Fungicide strategy** – Scope TBD
  - Draft date TBD

# Thank You!

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