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## FAQs: Introduction to Pesticide Registration and the Endangered Species Act (ESA) Presentation

This presentation is the result of a collaborative effort between the following individuals and organizations:

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- Brown, Kim – University of Tennessee Extension & the American Association of Pesticide Safety Educators (AAPSE)
- Chism, Bill - Weed Science Society of America (WSSA) Endangered Species Act (ESA) Committee Chair
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Additional advice and support was provided by staff from the U.S. Environmental Protection Agency's (USEPA) Office of Pesticide Programs (OPP). Note that any mention of trade names, manufacturers or specific products does not imply an endorsement by the U.S. Government or its employees.

When giving this presentation, please keep in mind that there are three key messages for the audience to remember:

1. Pesticide labels are changing to protect federally listed endangered and threatened species.
2. Additional label mitigation strategies may be required for pesticide spray drift and runoff/soil erosion in areas with listed and other non-target species and their critical habitat(s).
3. Comprehensive changes could take 15 + years as more pesticide labels are updated to address ESA risks.

**Background** – The Endangered Species Act (ESA) was signed into law in 1973 by President Nixon and requires that every federal action (including the registration of pesticides) involves consultation between the “action agency” (i.e., USEPA for pesticide registrations) and the U.S. Fish and Wildlife Service (USFWS) or the National Marine Fisheries Service (NMFS). The USFWS is the authority for federally listed terrestrial and freshwater species, and the NMFS is the authority for saltwater species.

The focus of USEPA's current ESA Strategies is on conventional pesticides (i.e., fungicides, herbicides, insecticides, and rodenticides) used on agricultural crops. The USEPA is increasingly assessing whether additional spray drift and runoff/soil erosion label mitigations are necessary for pesticides in order to protect listed species and ensure compliance with ESA. Eventually these ESA strategies will be developed and applied to all pesticides, including anti-microbials and bio-pesticides. Also, outdoor non-agricultural uses of rodenticides are currently being assessed for ESA, along with other non-agricultural uses (e.g., mosquito adulticides).

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**Purpose** - This presentation is an initial step to provide pesticide safety and extension educators a uniform message on a complicated and rapidly evolving issue. As USEPA rolls out the ESA strategies on more and more pesticides, implementation on labels will likely evolve and be continuously refined. This document has been developed to help the presenter think through possible questions that might be asked during the presentation. Answers to some of these questions will depend on the state or region of the country you are located in.

#### **FAQs:**

1. Regulatory requirements in states
  - a. There is a lot of uncertainty right now at the state level on how they will implement and enforce elements of USEPA's ESA strategies. Rather than assuming anything on behalf of your state's regulatory agency, it's probably best to be prepared to provide some contact information for state regulators.
  - b. Recordkeeping best practices or requirements to track compliance will likely be a common topic of questioning. Again, there is a lot of uncertainty at the state level, and a lot of variability between states on existing reporting requirements. As a speaker you might tell the audience that your state is still working on this topic and provide contact information for state regulators. Also continue to encourage diligent records to showcase use of best management practices and steps taken to protect non-target species and habitat.
2. Where might ESA information be found on pesticide labels
  - a. For the few pesticides that have some ESA-related mitigations on their labels already (e.g., Enlist products, glufosinate-P, cyantraniliprole) these have been listed broadly under "Directions for Use", including in specific sections titled "Endangered Species Requirement" or "Endangered Species Protection Requirement".
  - b. In addition to specific mitigation requirements on the labels, labels may direct the applicator to see a mitigation website or the Bulletins Live! Two webpage with additional site-specific information on other mitigations; mitigation websites will generally be hosted by USEPA, though in a few cases they are hosted by pesticide registrants.
3. How do growers get enough points (for runoff/soil erosion mitigations) or percentage reductions (for spray drift buffers)?
  - a. Suggest that applicators use USEPA's runoff/soil erosion points calculator tool, and when released the spray drift buffer calculator.
  - b. Remind the audience that they should work cooperatively with (in no particular order): conservation specialists, crop consultants, extension, pesticide safety educators, state lead agencies and/or registrants.
4. Where can more information be found?
  - a. As mentioned on Slide #22, resources on USEPA's ESA strategies can be found at:
    - <https://www.epa.gov/endangered-species>
    - [Pesticides and Endangered Species Educational Resources Toolbox | US EPA](#)
    - <http://wssa.net/endangered-species/>
  - b. Note that there are differences between the outcome of consultations between USEPA and USFWS/NMFS that result in changes to pesticide labels, and label changes proposed by USEPA as part of their ESA strategies (which were developed specifically for USFWS species).

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Additional information, including slides will be coming that focus on differences between mitigations from NMFS consultations and those from USEPA/USFWS ESA strategies. Ultimately, all required mitigations will be on the label (or the label will direct you to required mitigations presented in BLT or on USEPA webpages). **So, as always, pay attention to the current label on the product you are using.**

- c. Additional information on implementation of conservation practices can be found at:
  - USEPA's mitigation menu webpage - <https://www.epa.gov/pesticides/mitigation-menu>
  - Local soil and water conservation districts
  - Local USDA service center (note that USEPA has a document to crosswalk their terms with USDA Natural Resource Conservation Service (NRCS) terms at [Crosswalk EPA to NRCS terms](#) for conservation practices)
  - Crop consultants and agronomists
5. Has USEPA said what they can do to provide ESA information to people that do not have access to or have difficulty using the internet?
  - a. USEPA is aware of this potential internet access issue and is working with agricultural stakeholders to leverage existing communication pathways to alleviate this issue.
6. Do you know why USEPA chose 6-month for Bulletins Live two?
  - a. According to available public information, six months was established early on in USEPA's ESA efforts to be the optimal compromise between assumptions of the practicality of checking the website and ensuring the data was up to date.
7. What do you do if you are using a tank-mix product?
  - a. Go with the requirements for the most restrictive mitigation across product labels included in the tank mix.
  - b. Note that because USEPA is rolling ESA strategies during the registration of new active ingredients and uses, and ongoing registration review of existing registrations, you will see ESA mitigations on different labels at different times.

#### **Important Take-away Messages to Emphasize**

- Incorporation of ESA-related mitigations on pesticide labels is relatively new and many growers will have lots of questions. There are uncertainties and unknowns, and we'll learn more about how this is going to work as we see ESA mitigations appear on more product labels.
- Proactively reach out to and get to know folks in your state working on ESA, they can include local FWS or USDA staff, state conservation staff, commodity board staff, PSEPs (pesticide safety education program persons), or other extension specialists.
- If you have questions, please reach out USEPA ESA staff at: [pesticidequestions@epa.gov](mailto:pesticidequestions@epa.gov).

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**Additional Questions:**

USE THIS SPACE TO ADD QUESTIONS THAT YOU GET DURING YOUR PRESENTATION,  
PLEASE SEND ANY QUESTIONS BACK TO ONE OF THE CO-AUTHORS FOR COMPILATION

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