



For Immediate Release

Why Growers May Lose Herbicide Options Due to EPA's Strategy for Endangered Species Act Compliance

The Weed Science Society of America (WSSA) encourages growers to study the U.S. Environmental Protection Agency's (EPA) [proposed herbicide strategy](#) for Endangered Species Act compliance and comment on how it may affect their operations.

WESTMINSTER, Colorado – September 25, 2023 – The U.S. Environmental Protection Agency's (EPA) development of an updated Endangered Species Act (ESA) workplan could cause growers to lose herbicide options. That's why the WSSA urges growers to let the EPA know how this workplan could impact their farms and ranches.

The ESA requires that all federal agencies, including EPA, take no actions that jeopardize endangered and threatened species or adversely modify their designated critical habitat. If a pesticide negatively impacts a threatened and endangered species, then the EPA must require actions on the pesticide label to reduce drift, runoff, or erosion under the ESA, or simply remove the use of that pesticide in that area or county.

That's prompted EPA to devise a "herbicide strategy" focused on conventional herbicides used in agriculture in the lower 48 states. Note that over half of the 1800 listed endangered and threatened species occur in Hawaii. EPA's proposed herbicide strategy considers the potential impacts of agricultural herbicides to 400 listed plants and 500 listed animals that depend on plants. This strategy concerns WSSA because growers may lose herbicides and other crop protection products due to growers being unable to meet the EPA's proposed ESA compliance requirements.

Growers need to be aware that the ESA prohibits a wide range of actions from:

- **Killing a member of an endangered or threatened species.**
- **Altering the habitat of an endangered species in such a way that it affects its ability to eat or reproduce.**

"If you have an endangered species in your state, county, or on your farm, the herbicide labels you used in the past will likely change," says Bill Chism, WSSA ESA Committee Chair. "In some cases, growers in certain counties or areas could lose the use of one or more herbicides that they were able to use previously. The updated product labels could include new application timing requirements designed to reduce runoff, leaching, spray drift and other off-target

impacts on threatened and endangered species and their critical habitats.”

Growers and land managers need to become familiar with how to access important application instructions online through [EPA’s Bulletins Live! Two](#).

Mitigation Strategies

The two main ESA mitigation strategies are methods to reduce spray drift and herbicide run-off through erosion.

To reduce herbicide drift risks, applicators will need to:

- **Incorporate downwind buffers**
- **Use a larger spray droplet size**
- **Use a maximum windspeed cutoff**

To reduce the risk due to herbicide runoff or erosion, growers will need to incorporate multiple conservation practices such as:

- **Contour farming**
- **Cover crops**
- **Terracing**
- **Mulching**
- **Residue and tillage management**
- **Grassed waterways**
- **Vegetative filter strips**

Violations can result in either civil or criminal penalties. The ESA allows civil penalties of up to \$25,000 per violation, and criminal penalties of up to \$50,000 and one year in prison per violation. It is therefore important for farmers and landowners to be aware if a listed species is present on or near their property in order to avoid causing unlawful take or altering its critical habitat.

“EPA’s reregistration of Enlist One and Enlist Duo herbicides last year shows what is to come,” says Chism. “The updated product labels include new application timing requirements designed to reduce runoff, leaching, spray drift and other off-target impacts on threatened and endangered species and their critical habitats. **These products can no longer be used in certain counties,**” he adds.

Besides potentially losing herbicide options, the WSSA is concerned that some ESA mitigation strategies are impractical for certain farms or ranches. The WSSA urges growers to submit comments to EPA on the proposed ESA mitigation methods and how it will impact their operations. To submit comments, please visit: www.regulations.gov and type “EPA-HQ-OPP-2023-0365” in the search box on top. There are a number of “Supporting & Related Material” files and a “Memorandum to Open Docket for Comment...” [Comments can be submitted there](#). The deadline to comment is **October 22, 2023 at 11:59 p.m. Eastern**.

About the Weed Science Society of America

The Weed Science Society of America, a nonprofit scientific society, was founded in 1956 to encourage and promote the development of knowledge concerning weeds and their impact on the environment. The Society promotes research, education and extension outreach activities related to weeds, provides science-based information to the public and policy makers, fosters awareness of weeds and their impact on managed and natural ecosystems, and promotes cooperation among weed science organizations across the nation and around the world. For more information, visit www.wssa.net.

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