

# What We've Learned, What We Need: The FIFRA/ESA Consultation Process

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# MEMORANDUM OF AGREEMENT

## WHAT IS IT?

- January 31, 2018 Memorandum of Agreement (MOA) between the Environmental Protection Agency, the Department of the Interior, and the Department of Commerce.
- Established an Interagency Working Group to Coordinate Endangered Species Act Consultations for Pesticide Registration and Registration Reviews.



# MEMORANDUM OF AGREEMENT

## PURPOSE

- Interagency working group also includes Dept of Agriculture, Office of Management and Budget, and Chaired by the Council on Environmental Quality.
- Provide recommendations to EPA and the Services on improving the ESA Consultation Process for:
  - Pesticide Registrations
  - Pesticide Registration Reviews
- Record and formalize a new process.



## THE CHALLENGE

- EPA and the Services have worked to determine how best to fulfill ESA's consultation requirements when registering and reregistering pesticides.
- National Research Council (NRC) examined the scientific and technical issues related to determining risks posed to listed species by pesticides.
  - NRC's report identified categories of issues the agencies should seek to resolve and strategies to improve interagency coordination.
- The pesticide consultation process continues to be subject to litigation and consent decrees, along with causing regulatory delays and uncertainty

# MEMORANDUM OF AGREEMENT: ACTIONS



- Review past pesticide consultation practices.
- Develop scientific and policy approaches.
  - Develop a streamlined process for identifying which actions require no consultation, informal consultation, or formal consultation.
  - Provide clarity as to what constitutes the “best scientific and commercial data available” for pesticide use and risk assessment
- Outline a legal and regulatory framework.
- Document the proposed approach through a memorandum of understanding, regulations, or other legal mechanism.

# MEMORANDUM OF AGREEMENT: OTHER PROVISIONS



- The MOA remains in effect until it is terminated by any Signatory Agency.
- The MOA may only be modified by mutual agreement of the signatory agencies.
- The MOA does not affect agency authority.
- The MOA does not involve funding.
- The Working Group may seek or receive stakeholder input.



# Letter of Support for MOA on Areas of Common Interest

## Signatories

CropLife  
America

Defenders of  
Wildlife

American  
Soybean  
Association

Minor Crop  
Farmer Alliance

National  
Association of  
Corn Growers

National  
Association of  
Wheat Growers



## Goals

- Seek an efficient regulatory process for aligning federal pesticide registration decisions under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) with the requirements of the Endangered Species Act (ESA).
- Support the January 31, 2018 Memorandum of Agreement on establishment of an Interagency Working Group to Coordinate Endangered Species Act Consultations.
- Harmonize endangered species conservation with agriculture and pest control.
- Improve the process of assessing potential impacts to endangered species associated with pesticide registrations.





# Proposals for Reform

- Develop interagency processes on pesticide consultation that enable the EPA, Services, and USDA to make the best use of each agency's expertise and limited resources
- Use more refined species location maps and better pesticide use data
- Adopt better endangered species exposure assessments
- Take advantage of avoidance and minimization opportunities to improve the efficiency and effectiveness of pesticide consultations
- Support opportunities to use voluntary conservation in pesticide evaluations
- Prioritize species-use combinations for formal consultation