



FIFRA and ESA obligations can be “consistent” and “complementary.”

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Agriculture and Nutrition Act of 2018

Section 9111

Registration of Pesticides

FIFRA Reform

- Section 9111 would amend the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) to incorporate the Endangered Species Act (ESA)'s protection standard for threatened and endangered species and their critical habitat into FIFRA's pesticide registration standard.
- As a result, EPA would be required to expressly ensure protection of federally listed threatened and endangered species (TES) and critical habitat to register any pesticide.

What is proposed?

- Use the relevant agencies' expertise.
- Empower Inter-Agency Cooperation.
- EPA has expertise in ecological risk assessments of pesticides.
- The Services have expertise on the authoritative and best available data on TES location, life history, habitat needs, distribution, threats, population trends and conservation or recovery needs.
- Give EPA access to the Service's knowledge base and require EPA to use it to make a timely and efficient jeopardy and habitat determinations.

Does proposal “gut” the ESA?

- No.
- This is an amendment to FIFRA, not to ESA.
- It imposes the ESA’s standard of protection for threatened and endangered species and their critical habitat into the FIFRA as a registration standard.
- This ensures that EPA will have and must consider the authoritative and best available data on TES location, life history, habitat needs, distribution, threats, population trends and conservation or recovery needs in every pesticide risk assessment.

Does proposal exempt pesticide products from key Endangered Species Act safeguards?

- No.
- Under Section 911, to approve a pesticide EPA *must* determine that “use of product is not likely to jeopardize the survival of a TES or directly or indirectly alter in a manner that is likely to appreciably diminish the value of critical habitat for both the survival and recovery of the listed species”.
- To make this determination EPA must use the Services’ authoritative and best available data on TES location, life history, habitat needs, distribution, threats, population trends and conservation or recovery needs.

Does proposal exempt the industry from responsibility for harms caused by pesticides?

- No.
- Amendment strengthens the registration approval standard for all pesticides.
- Incorporating the ESA standard for protecting TES and their critical habitat as an approval standard requires EPA to make an affirmative determination that action will not jeopardize TES or appreciably diminish habitat to approve any pesticide.

Does proposal limit (or completely cut out) expert wildlife scientists' input?

- No.
- Amendment directs full Inter-Agency Cooperation and makes expert wildlife data an essential element in every pesticide approval.
- For every pesticide registration, EPA must use the Services' best species and habitat knowledge base.
- By supplying authoritative and best available data on TES location, life history, habitat needs, distribution, threats, population trends and conservation or recovery needs on a timely basis, the Services' input and expertise will become a central feature of every FIFRA approval.
- With expert information in hand, EPA must make an affirmative determination that use of product is not likely to jeopardize the survival of a TES or directly or indirectly alter in a manner that is likely to appreciably diminish the value of critical habitat for both the survival and recovery of the listed species.

Does proposal aim to create efficiencies in the decision-making process?

- Yes.
- Amendment requires a new form of interagency cooperation and integration of decision-making.
- Amendment replaces duplicated efforts, limits waste of federal and private resources and breaks a de facto deadlock that blocks timely approvals of FIFRA products and yet fails to benefit the conservation or recovery of threatened and endangered species or habitat.

Does current consultation process work effectively and efficiently?

- No.
- There is strong evidence that FIFRA/ESA consultations are not working effectively or efficiently.
- Three nationwide consultations began in 2013 and are not yet complete.
- Economic analysts have determined that the Services would require up to a 25-fold budget increases to meet demand for timely completion of EPA's current schedule for pesticide registration and registration review.
- Amendment establishes predictable pathway for regulatory actions and improved protection, conservation and recovery of species based on new methods of interagency cooperation and implementation of the 2004 Joint Counterpart Regulations.

Thank You,
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