

PESTICIDE REPORTS

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CHEM

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EPA ANNOUNCES ENDANGERED SPECIES ACT PROTECTION POLICY FOR NEW PESTICIDES

Reversing decades of practice, the U.S. Environmental Protection Agency (EPA) is taking meaningful action to further the Agency's compliance with the Endangered Species Act (ESA) when evaluating and registering new pesticide active ingredients (AIs). Effective today, before EPA registers any new conventional AI, the Agency will evaluate the potential effects of the AI on federally threatened or endangered (listed) species, and their designated critical habitats, and initiate ESA consultation with the U.S. Fish and Wildlife Service and the National Marine Fisheries Service (the Services), as appropriate.

Before today's announcement, in most cases, EPA did not consistently assess the potential effects of conventional pesticides on listed species when registering new AIs. This resulted in insufficient protections from new AIs for listed species, as well as resource-intensive litigation against EPA for registering new AIs prior to assessing potential effects on listed species. EPA's new policy should reduce these types of cases against the Agency and improve the legal defensibility of new AIs, which often have lower human health and ecological risks than older pesticides.

"Protecting listed species and their habitats is essential to EPA's mission to protect human health and the environment," said Assistant Administrator for the Office of Chemical Safety and Pollution Prevention Michal Freedhoff. "With this policy, EPA is taking a critical step to register new pesticides in a way that prioritizes protections for listed species."

"Incorporating ESA assessments into the registration process for new pesticides is a key component of EPA's larger effort to meet the Agency's ESA obligations efficiently and effectively," said Ya-Wei (Jake) Li, Office of Chemical Safety and Pollution Prevention Deputy Assistant Administrator for Pesticide Programs. "I look forward to seeing the positive impact of this new approach and working on additional improvements that are both beneficial for species and fair to pesticide registrants."

Under today's policy, if EPA finds through its analyses that a new conventional pesticide AI is likely to adversely affect listed species or their designated critical habitats, EPA will initiate formal consultation with the Services before granting a new AI registration. As part of its analysis and under its existing authorities, EPA will consider the likelihood that the registration action may jeopardize the continued existence of listed species or adversely modify their designated critical habitat and provide its findings to the Services. To determine or predict the potential effects of a pesticide on these species and habitats, EPA will use appropriate ecological assessment principles and apply what it has learned from past effects determinations and the Services' biological opinions.

If EPA determines that jeopardy or adverse modification is likely, the Agency will only make a registration decision on the new AI after requiring registrants to implement mitigation measures that EPA determines would likely prevent jeopardy or adverse modification. If EPA finds that a new AI is

likely to adversely affect listed species or their critical habitat, but that jeopardy/adverse modification is not likely, it may nonetheless require registrants to include mitigation measures on their registration and product labeling to minimize the effects of incidental take to listed species that could result from use of a pesticide. In both situations, formal consultation with the Services is still necessary. Further, EPA may determine that it is necessary for registrants to incorporate a link to *Bulletins Live! Two*—an online system that describes use limitations for EPA-registered pesticides by geographic area—into the product's labeling.

When identifying necessary mitigations to prevent jeopardy/adverse modification, EPA will consider a variety of factors including how species or critical habitats are exposed to a pesticide and what the likely effects of the pesticide exposure will be. Because listed species are often exposed to pesticides on treatment sites or in off-site habitats that receive spray drift and runoff, EPA expects that mitigation measures will often include avoiding or minimizing these exposure routes. Where possible, EPA intends to provide several mitigation options to allow flexibility for growers while ensuring protections for listed species.

EPA is also continuing to explore applying these new ESA approaches to new biopesticide AIs and new antimicrobial AIs. EPA is currently developing a detailed work plan to outline additional improvements to further the Agency's compliance with the ESA, including steps to implement protections for high-risk species more efficiently, provide growers with more flexible mitigation measures, and increase stakeholder engagement. To learn more about EPA's [Endangered Species Act Protection Policy for New Pesticides](#), [read the Q&A document](#).

(EPA, January 11, 2022)

<https://www.epa.gov/newsreleases/epa-announces-endangered-species-act-protection-policy-new-pesticides>

EPA RENEWS ENLIST PRODUCT REGISTRATIONS WITH NEW CONTROL MEASURES, PROVIDING GROWERS WITH CERTAINTY FOR THE 2022 GROWING SEASON

Today, EPA is issuing seven-year registrations for two herbicide products, Enlist Duo and Enlist One, to ensure growers have access to effective pesticide tools for the 2022 growing season. The new product labels, which incorporate robust control measures to protect non-target plants and animals, meet Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) standards and comply with the Endangered Species Act (ESA).

Enlist Duo and Enlist One are herbicides used to control weeds in conventional and genetically-modified corn, cotton, and soybean crops. Both products, registered in 2014 and 2017, respectively, were set to expire in January 2022 if the Agency did not renew their product registrations. Based on EPA's thorough analysis of scientific data, evaluation of cost-benefit information, and discussions with industry stakeholders, the Agency has determined that Enlist products, with the new protective measures in place, should remain available to most American farmers.

To evaluate the proposed uses of the Enlist products, EPA evaluated the potential effects of these products on federally threatened or endangered (listed) species, and their designated critical habitats, and initiated ESA consultation with the U.S. Fish and Wildlife Service.

EPA determined that the use of Enlist Duo and Enlist One are likely to adversely affect listed species but will not lead to jeopardy of listed species or to the destruction or adverse modification of designated critical habitats. EPA also anticipates

that the new protective measures will reduce the potential for "take."

In addition to EPA's effects determination, EPA also completed a comprehensive ecological risk assessment that assessed the risks of 2,4-D choline salt (2,4-D), an active ingredient in both Enlist products, and glyphosate dimethylammonium salt (glyphosate), an active ingredient in Enlist Duo.

EPA's ecological assessment found direct risks to non-listed and listed plants from pesticide runoff (i.e., pesticide carried off the application site following rainfall or irrigation) and risks to animals that rely on these affected plants for diet or habitat, including non-listed and listed animals and some designated critical habitats. EPA's ecological assessment also found direct effects to bees and listed species that use corn, cotton, and soybean fields for diet and/or habitat.

Based on these findings, EPA is requiring the implementation of a variety of protective measures as a condition of the product registrations. Some of the protective measures EPA is taking include:

- Prohibiting Enlist product application when rainfall is expected to occur within 48 hours and when soil can no longer absorb water;
- Prohibiting irrigation that would result in runoff within 48 hours of application of the Enlist herbicide products;
- Requiring users to select from a list of runoff reduction measures to reduce 2,4-D and glyphosate concentrations in runoff, while also providing users with flexibility;
- Minimizing Enlist product application when soybean and cotton crops are in bloom to reduce risks to insect pollinators, such as honey bees; and
- Requiring the registrant to develop and provide mandatory education and training materials that emphasize the importance of pollinators and pollinator habitat for species

including, but not exclusive to, monarch butterflies.

EPA will also be prohibiting the use of Enlist Duo and Enlist One in counties where EPA identified risks to on-field listed species that use corn, cotton or soybean fields for diet and/or habitat. EPA does not expect this measure to disrupt the use of Enlist products for most American farmers—the counties where use will be prohibited by these new measures represents approximately three percent of corn acres, eight percent of cotton acres, and two percent of soybean acres nationally.

The “likely to adversely affect” (LAA) determination means that EPA reasonably expects that at least one individual animal or plant, among a variety of listed species, may be exposed to the pesticide at a sufficient level to have an effect, which will be adverse. The LAA threshold for a Biological Evaluation (BE) is very sensitive because the likely “take” of even one individual of a species, which includes unintentional harm or death, triggers an LAA determination. This is the case even if a species is almost recovered to a point where it no longer needs to be listed. As a result, there is a high number of “may affect” and LAA determinations in these BEs. An LAA determination, however, does not necessarily mean that a pesticide is putting a species in jeopardy. Jeopardy determinations will be made by the U.S. Fish and Wildlife Service and the National Marine Fisheries Service in the course of formal consultation that evaluates any effects of the pesticides on entire species.

To view the final registration for Enlist Duo and Enlist One, go to docket [EPA-HQ-OPP-2021-0957](#).

To learn more about Enlist Duo and Enlist One, read [EPA’s Q&A](#).

(EPA, January, 11,2022)
<https://www.epa.gov/pesticides/epa-renews-enlist->

[product-registrations-new-control-measures-providing-growers-certainty](#)

Oklahoma Applicators should be aware that Enlist are not allowed for use in eastern Oklahoma counties by the 2022 labels. These OKLAHOMA counties are: Adair, Atoka, Bryan, Carter, Cherokee, Choctaw, Cleveland, Coal, Craig, Creek, Delaware, Garvin, Haskell, Hughes, Johnston, Kay, Latimer, Le Flore, Lincoln, Love, Marshall, Mayes, McClain, McCurtain, McIntosh, Murray, Muskogee, Noble, Nowata, Okfuskee, Okmulgee, Osage, Ottawa, Pawnee, Payne, Pittsburg, Pontotoc, Pottawatomie, Pushmataha, Rogers, Seminole, Sequoyah, Tulsa, Wagoner and Washington. (OSU PSEP February 1, 2022)

EPA EXTENDS FLEXIBILITIES TO MINIMIZE SUPPLY-CHAIN DISRUPTIONS FACING THE PESTICIDE INDUSTRY

The U.S. Environmental Protection Agency (EPA) has extended supply chain flexibilities for registrants of certain conventional and bio-pesticide products to alleviate a supply chain issue facing the pesticide industry.

On July 1, 2021, EPA implemented supply chain flexibilities that allowed registrants to substitute a combination of pre-approved alternate inert ingredients for inert ingredients derived from propylene oxide (PO) feedstocks. This was intended to address the limited supply of PO feedstocks due to weather events that occurred in the U.S. Gulf Coast in February 2021.

Although this action was originally set to expire on Dec. 31, 2021, EPA has extended these supply chain flexibilities until Dec. 31, 2022, due to continued disruptions to production.

The pre-approved alternates for propylene glycol, a derivative of PO feedstocks, include: glycerin (CAS Reg. No. 56-81-5), diethylene glycol (CAS Reg. No. 111-46-6), ethylene glycol (CAS Reg No. 107-21-1); and/or 1,3-propanediol (CAS Reg. No. 504-63-2). These substitutions can be added to a product formulation or a brand-name mixture.

Registrants must self-certify that the substitute inert ingredients will:

- Serve the same function in the product as propylene glycol;
- Maintain the validity of product-specific data submitted in support of the registration;
- Maintain the product's acute toxicity category and physical/chemical characteristics such that no label modifications are required; and
- Maintain the product's fitness for its intended purposes in terms of efficacy, phytotoxicity, and any other factor.

Any registrants who would like to make the substitution permanent will have to go through the standard amendment process outlined in PRN 98-10.

(EPA January 10, 2022)

<https://www.epa.gov/pesticides/epa-extends-flexibilities-minimize-supply-chain-disruptions-facing-pesticide-industry>

ENLIST HERBICIDE HEARTBURN

Ethan Zoerb has never seen an American burying beetle, but the insect is threatening to bury his soybean plans for 2022. Two Nebraska counties where he and his father, Dale, farm are among those prohibited from using Corteva's Enlist herbicides next year to protect the endangered beetle, according to new labels issued on Jan. 11 by the EPA.

"We've had this bomb dropped on us that Enlist won't be available in Custer or Sherman -- the two counties where most of our acreage is located," Zoerb explained. "It leaves us without many options for soybean weed control."

In total, the new label for Enlist Duo (2,4-D-choline-glyphosate premix) bans use of the product in 217 counties in 21 states, with the bulk falling in Arkansas, Florida, Kansas, Nebraska, Ohio, Oklahoma and Texas. Enlist One (2,4-D-choline only) is prohibited from use in 169 counties in 14 states, many of which overlap with Enlist Duo's banned counties. (See full lists of those counties printed at the end of this article. See DTN's story on the other label restrictions here: <https://www.dtnpf.com/...>)

In emailed statements issued to DTN by a Corteva spokesperson, the company said the county prohibitions were driven entirely by EPA's newly rigorous analysis of risks to endangered species, a process all registered pesticides will soon undergo to fulfill the requirements of the Endangered Species Act (ESA). The statement added that Corteva had not seen the finalized labels until Jan. 11 and that the company is working to provide data to EPA that could roll back some of these prohibitions:

"Corteva Agriscience has -- and continues to -- conduct studies and work to provide additional data to EPA to allow the agency to remove some of these geographic label restrictions while still ensuring protection of listed species and their habitats, consistent with the requirements of the ESA. It is possible that some county restrictions may be removed in the coming months, but it is too early to speculate."

The company also addressed the concerns of some farmers that -- according to EPA documents supporting the registration -- many of the banned

counties were listed on a draft label submitted by Corteva to EPA back in May 2021.

In those documents, EPA states that Corteva did not submit 131 counties in 10 states for registration of the Enlist labels, in addition to the 29 counties in three states banned from use on the old 2017 Enlist labels. "... [O]n the 5/14/21 labels, Corteva voluntarily prohibited use in additional counties to protect the American Burying Beetle," the agency wrote.

In its statement, Corteva said this action was necessary to move forward with the process of amending the Enlist registrations, after the EPA's endangered species analysis raised concerns about these counties. The company always intended to produce new data to get those counties off the prohibited list but ran into the labels' Jan. 12, 2022, expiration date, Corteva said.

"The ultimate goal was -- and is -- for EPA to use those data for refinement of the risk assessment and reinstatement of these counties on the label," Corteva's statement read. "While the target was consistently for EPA to consider the data and refine the assessment prior to issuance of the amendment, the existing label was set to expire on Jan. 12, and it became no longer feasible for those steps to be accomplished prior to expiration and a timely amendment issued."

The situation has raised questions about why farmers, such as Zack Rendel, who farms in one of the affected counties, Ottawa, in northeastern Oklahoma, were allowed to buy Enlist seed in the fall of 2021, while these county prohibition negotiations were underway.

"Our argument is not to go ahead and let us spray this beetle," Rendel explained. "Our argument is that this was not communicated to us at all, zero, zip, nada."

Rendel ordered his Enlist E3 soybean seed in November of 2021 and paid for it in full in late December. But it wasn't until Jan. 12, 2022, when, through communications with a university weed scientist, he realized most counties in eastern Oklahoma were prohibited from using both Enlist herbicides.

"We shut down all our fieldwork, the whole farm," Rendel said. "And we started researching this."

After a series of frantic phone calls and texts, it became clear that none of Rendel's soybean seed dealers from Pioneer, Stine or AgriGold had any forewarning of these prohibitions, he said.

David Thompson, national marketing and sales director for Stine Seed, confirmed that the company only learned of the banned counties on Jan. 11, when the labels were released.

"Stine Seed Company was made aware of the Enlist One and Enlist Duo label changes this week when the labels were announced," Thompson wrote in an email to DTN. "We have been in contact with Corteva and received the news release and other guidance documents. With this, we are beginning the process of communicating to our team and our customers. We intend to work with each customer in those affected counties to find the weed control program that will work best for them."

For now, Rendel and his family are scrambling to figure out if they need to return their Enlist soybean seed and buy another type of herbicide-tolerant seed while taking a hit on missed early purchasing incentives and re-jiggering chemical purchases.

"I feel like the company threw us to the wolves because we farm a 'negligible amount' of acres," he said, referencing EPA's characterization of the affected counties. Switching to XtendFlex seed is not an easy solution for Rendel, since most soybeans in his region are planted close to or after

the national dicamba use cutoff date of June 20, he said.

Options are similarly limited for Nebraska's Zoerb. "We made the decision to move away from Xtend technology and adopt Enlist mostly because the endangered species buffers for dicamba herbicides made application so difficult in Custer County," he explained.

whether supply chain issues will now influence next steps. "We had no indication this was coming," he said. "Mostly I'm really tired of trying to make smart decisions and having regulations come out of nowhere made by those who don't seem to understand when And beyond the hassle of changing seed and chemical orders, Nebraska's Zoerb also wondered or how we make decisions."

"I know we aren't the center of the universe on soybeans, but we do raise a lot of beans here, and they are important to our bottom line and rotations," Zoerb added.

Here is the current list of 217 counties where the use of Enlist Duo is prohibited:

ALABAMA: Covington.

ARIZONA: Yuma, Pinal or Pima counties in areas south of Interstate Highway 8 and west of U.S. Highway 85. In Yuma, Pinal, Maricopa, Pima, La Paz and Santa Cruz counties, do not

use GF3335 on land administered by the U.S. Fish and Wildlife Service or National Park Service.

ARKANSAS: Crawford, Franklin, Johnson, Little River, Logan, Montgomery, Polk, Scott, Sebastian, Sevier and Yell.

COLORADO: Weld.

FLORIDA: Brevard, Broward, Charlotte, Collier, DeSoto, Glades, Hardee, Hendry, Highlands,

Hillsborough, Indian River, Jackson, Lee, Manatee, Martin, Miami-Dade, Okeechobee, Orange, Osceola, Palm Beach, Polk, Santa Rosa, Sarasota, and St. Lucie.

GEORGIA: Baker, Berrien, Brooks, Burke, Calhoun, Early, Irwin, Lee, Miller, Screven, Worth.

KANSAS: Chautauqua, Cherokee, Cowley, Elk, Greenwood, Labette, Montgomery, Neosho, Wilson and Woodson.

LOUISIANA: Natchitoches.

MASSACHUSETTS: Nantucket.

MINNESOTA: Clay, Marshall, Polk, Redwood, Renville, Stearns.

NEBRASKA: Antelope, Blaine, Boone, Boyd, Brown, Cherry, Custer, Dawson, Frontier, Furnas, Garfield, Gosper, Greeley, Hayes, Holt, Hooker, Howard, Keya Paha, Knox, Lincoln, Logan, Loup, McPherson, Merrick, Nance, Phelps, Red Willow, Rock, Sherman, Thomas, Valley and Wheeler.

NEW YORK: Genesee, Seneca, Wayne.

OHIO: Athens, Butler, Fairfield, Guernsey, Hamilton, Hocking, Morgan, Muskingum, Noble, Perry, Vinton and Washington.

OKLAHOMA: Adair, Atoka, Bryan, Carter, Cherokee, Choctaw, Cleveland, Coal, Craig, Creek, Delaware, Garvin, Haskell, Hughes, Johnston, Kay, Latimer, Le Flore, Lincoln, Love, Marshall, Mayes, McClain, McCurtain, McIntosh, Murray, Muskogee, Noble, Nowata, Okfuskee, Okmulgee, Osage, Ottawa, Pawnee, Payne, Pittsburg, Pontotoc, Pottawatomie, Pushmataha, Rogers, Seminole, Sequoyah, Tulsa, Wagoner and Washington.

PENNSYLVANIA: Adams, Berks, Chester, Cumberland, Lancaster, Lebanon and York.

RHODE ISLAND: Washington.

SOUTH CAROLINA: Orangeburg.

SOUTH DAKOTA: Bennett, Charles Mix, Gregory, Lyman, Mellette, Todd and Tripp.

TENNESSEE: Wilson.

TEXAS: Bastrop, Bell, Bowie, Burleson, Cameron, Colorado, Cooke, Fannin, Grayson, Hidalgo, Hill, Lamar, McLennan, Milam, Nueces, Red River, Refugio, Robertson, San Patricio, Victoria, Willacy and Williamson.

Here is the current list of counties where use of Enlist One is prohibited:

ARIZONA: Yuma, Pinal or Pima counties in areas south of Interstate Highway 8 and west of U.S. Highway 85. In Yuma, Pinal, Maricopa, Pima, La Paz and Santa Cruz counties, do not

use GF3335 on land administered by the U.S. Fish and Wildlife Service or National Park Service.

ARKANSAS: Crawford, Franklin, Johnson, Little River, Logan, Montgomery, Polk, Scott, Sebastian, Sevier and Yell.

COLORADO: Weld.

FLORIDA: Brevard, Broward, Charlotte, Collier, DeSoto, Glades, Hardee, Hendry, Highlands, Hillsborough, Indian River, Lee, Manatee, Martin, Miami-Dade, Okeechobee, Orange, Osceola, Palm Beach, Polk, Sarasota and St. Lucie.

KANSAS: Chautauqua, Cherokee, Cowley, Elk, Greenwood, Labette, Montgomery, Neosho, Wilson and Woodson.

MASSACHUSETTS: Nantucket.

MISSOURI: Barton, Bates, Cedar, St. Clair and Vernon.

NEBRASKA: Antelope, Blaine, Boone, Boyd, Brown, Cherry, Custer, Dawson, Frontier, Furnas, Garfield, Gosper, Greeley, Hayes, Holt, Hooker, Howard, Keya Paha, Knox, Lincoln, Logan, Loup, McPherson, Merrick, Nance, Phelps, Red Willow, Rock, Sherman, Thomas, Valley and Wheeler.

OHIO: Athens, Butler, Fairfield, Guernsey, Hamilton, Hocking, Morgan, Muskingum, Noble, Perry, Vinton and Washington.

OKLAHOMA: Adair, Atoka, Bryan, Carter, Cherokee, Choctaw, Cleveland, Coal, Craig, Creek, Delaware, Garvin, Haskell, Hughes, Johnston, Kay, Latimer, Le Flore, Lincoln, Love, Marshall, Mayes, McClain, McCurtain, McIntosh, Murray, Muskogee, Noble, Nowata, Okfuskee, Okmulgee, Osage, Ottawa, Pawnee, Payne, Pittsburg, Pontotoc, Pottawatomie, Pushmataha, Rogers, Seminole, Sequoyah, Tulsa, Wagoner and Washington.

RHODE ISLAND: Washington.

SOUTH DAKOTA: Bennett, Charles Mix, Gregory, Lyman, Mellette, Todd and Tripp.

TENNESSEE: Wilson.

TEXAS: Bell, Bowie, Cameron, Cooke, Fannin, Grayson, Hidalgo, Hill, Lamar, McLennan, Nueces, Red River, San Patricio, Willacy and Williamson.

See the labels and EPA's supporting registration documents here: [https://www.regulations.gov/...](https://www.regulations.gov/)

See more details on the 2022 Enlist herbicide labels and their new restrictions from DTN here

(Progressive Farmer, January 14, 2022)

<https://www.dtnpf.com/agriculture/web/ag/crops/article/2022/01/14/county-restrictions-enlist-cause>

RISE JOINS MORE THAN 350 PESTICIDE USER GROUPS IN SUPPORT OF PESTICIDE REGULATION

RISE (Responsible Industry for a Sound Environment) joined more than 350 pesticide user organizations this week, sending a letter to all members of the United States Senate and House of Representatives voicing support for the pesticide regulatory system currently in place under the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA).

This letter responded to legislation -- S. 3283 -- recently introduced by Senator Cory Booker (D-NJ) that would undermine the rigorous, science-based standards of FIFRA and threaten the availability of the safe and effective pesticide products that protect public health, pets, infrastructure, schools, waterways, green spaces, and food and agriculture production.

“Our members’ role is to protect public health and safety, infrastructure and the environment, so we must have the assurance of a federal regulatory process that supports science and innovation, along with safety and efficacy,” said Megan Provost, RISE president. “The federal regulatory process established under FIFRA gives us this certainty with its robust scientific backing. Senator Booker’s bill rejects 50 years of established federal and state regulation and science in favor of an approach where science is absent.”

Provost stressed the importance of the specialty pesticide and fertilizer industry and pesticide users to be engaged with their members of Congress and talk about the benefits of pesticide use and the existing regulatory framework.

“The start of this new Congress gives all of us an opportunity to reach out to our members of

Congress to share our expertise about pesticide regulation and application and to learn whether our state’s Senators are cosponsors of S. 3283,” she said.

The proposed legislation would jeopardize the continued availability of certain U.S. Environmental Protection Agency registered pesticide products and place limitations to what is available for professionals to treat residential, commercial and public spaces.

S. 3283 would impact products and applications made for vector control; protecting and enhancing homes and public places; for noxious and poisonous weed control; creating firebreaks and utility rights of way; protecting public infrastructure; and for controlling invasive and non-native species that harm native species and ecosystems.

RISE will continue actively monitoring S. 3283 and other anti-pesticide legislation. At this time, no companion bill to S. 3283 has been introduced in the U.S. House of Representatives. Contact RISE at www.pestfacts.org for more information.

To review S. 3283 and its language, [click here](#).

To download the letter sent to Members of Congress [click here](#)

(PCT Online January 11, 2022)

<https://www.pctonline.com/article/rise-supports-fifra/>

ENDANGERED SPECIES AND PESTICIDES

When Zack Rendel learned EPA's new labels for Enlist One and Enlist Duo banned use of the herbicides on his northeast Oklahoma farm, which was banking on planting Enlist soybeans this spring, he had a lot of words to describe the situation -- not all of them fit for publication.

But after EPA dropped its new endangered species policy that same day, a new phrase has emerged to describe the 2022 Enlist labels: A preview of things to come.

Based on DTN's analysis of this new EPA policy, farmers should expect to see more widespread, county-level prohibitions and increased run-off and spray drift restrictions on the labels of the pesticides they use in the future.

"I'm realizing this is probably the new normal," as Rendel put it. "And, well, it's just one more thing to worry about. It's very stressful for a young producer to operate when you don't know what they'll take away from you next."

So why is this happening? Essentially, for the first time in three decades, EPA has decided to fully comply with a federal statute called the Endangered Species Act.

"Reversing decades of practice, the U.S. Environmental Protection Agency (EPA) is taking meaningful action to further the Agency's compliance with the Endangered Species Act (ESA) when evaluating and registering new pesticide AIs [active ingredients]," the agency wrote in a news release on January 11. "Effective today, before EPA registers any new conventional AI, the Agency will evaluate the potential effects of the AI on federally threatened or endangered (listed) species, and their designated critical habitats..."

So, what is the Endangered Species Act and what does this new policy mean for current and future pesticide registrations? Here's what we know so far.

EPA WILL ENFORCE THE ESA FULLY FOR THE FIRST TIME IN DECADES

As EPA openly noted in its announcement, the agency has never been fully in compliance with the Endangered Species Act, or ESA, which became

federal law in 1973 -- just three short years after the EPA itself was founded by President Richard Nixon.

The ESA was designed to protect endangered and threatened species from extinction. Enforcing it falls to three federal agencies: the U.S. Fish and Wildlife Service, the National Marine Fisheries Service and the USDA.

But any federal agency whose actions could affect any of the roughly 1,800 listed species is required to ensure that those actions won't jeopardize the safety and health of those species or their habitats.

For EPA, those "actions" are pesticide registrations.

"Before today's announcement, in most cases, EPA did not consistently assess the potential effects of conventional pesticides on listed species when registering new [active ingredient]s," the agency wrote. "This resulted in insufficient protections from new AIs for listed species, as well as resource-intensive litigation against EPA for registering new AIs prior to assessing potential effects on listed species."

Why EPA is suddenly pivoting to fully comply with the ESA is a complex question, but this "resource-intensive" litigation seems a primary driver. By not following federal law in this regard, EPA opened itself up to many lawsuits from environmental groups against its pesticide registrations. Now, if EPA can show it is complying with the ESA, it will be harder for groups to successfully sue them over pesticide registrations.

"EPA's new policy should reduce these types of cases against the Agency and improve the legal defensibility of new AIs, which often have lower human health and ecological risks than older pesticides," the agency stated in its release.

See the new policy announcement here: <https://www.epa.gov/...>

NEW LABEL RESTRICTIONS ARE LIKELY FOR MOST AG PESTICIDES

In order to comply with the ESA, EPA will conduct a process called a "biological evaluation" for every new pesticide registration. The biological evaluation assesses whether the pesticide and its application parameters are "likely to adversely affect" any listed species or habitats or not. The bar is very low for finding a "likely to adversely affect" ruling for a species, the agency has noted in the past. As a result, most of the pesticides that have gone through this process, such as glyphosate, atrazine and the neonicotinoids, are found "likely to adversely affect" the majority of listed species.

However, this doesn't automatically result in label changes. The EPA passes its biological evaluation conclusions on to "the Services" -- the U.S. Fish and Wildlife Service and the National Marine Fisheries Service. They examine the species, habitats and pesticides in question and deliver a "biological opinion" on whether the pesticide registration will cause "jeopardy" to a listed species or "adverse modification of" a critical habitat.

If it does, the Services propose "reasonable and prudent alternatives (RPAs)" -- measures to reduce that risk of jeopardy from the pesticide.

In a webinar held Jan. 13, employees from both the EPA and the Services stressed they work hard to find mitigations that will avoid that "jeopardy" designation for a pesticide registration. "The goal is not to have [a finding of] jeopardy, the goal is to avoid jeopardy," as Kristina Garber, a senior science adviser in the Environmental Fate and Effects Division of EPA, put it. "And so, a big tool to do that is mitigations. That might be minimizing spray drift or runoff."

While the Services and EPA are still actively researching and soliciting the best mitigation measures to protect listed species, two main ones are emerging -- either removing a region with listed species in it from the pesticide label, or adding spray drift or runoff mitigation requirements to minimize the species' exposure to the pesticide.

The new EPA labels for Enlist One and Enlist Duo are good templates for farmers to study and get used to. EPA states that the agency conducted the necessary endangered species analysis to comply with the ESA for these herbicides and now their labels include both county-level bans and new measures designed to limit runoff, such as limiting spraying 48 hours before a rain or when soils are saturated.

See more on those labels here: <https://www.dtnpf.com/...> and here: <https://www.dtnpf.com/...>

NEXT UP: GLYPHOSATE, ATRAZINE, NEONICOTINOIDS AND MORE

Beyond the Enlist herbicides, only a handful of pesticides -- malathion, 1,3-D (Telone), metolachlor, bromoxynil and prometryn -- have made it through the full process, from biological evaluation to completed biological opinions, with proposed mitigation measures.

You can see those biological opinions, some of which are finalized and some still in draft form, here: <https://www.epa.gov/...>

More are coming. EPA has already conducted biological evaluations on common ag pesticides, including finalized evaluations of glyphosate, atrazine and simazine. They are now in the hands of the Services, which will issue biological opinions on them in the coming months. See more on those finalized evaluations here: <https://www.dtnpf.com/...>

EPA has also released draft biological evaluations of three neonicotinoids, commonly used in row-crop seed treatments -- clothianidin (such as Poncho), imidacloprid (such as Gaucho) and thiamethoxam (such as Cruiser). The agency expects to finalize those evaluations in the summer of 2022, after which they will move to the Services for biological opinions. See more on those draft evaluations here: <https://www.dtnpf.com/...>

Ultimately, every pesticide that goes through the re-registration process, will be evaluated for its endangered species risks. That includes herbicides such as dicamba and 2,4-D, which are starting their rolling, 15-year re-registration processes in 2022, and will affect all products containing those active ingredients.

Non-synthetic pesticides, called bio-pesticides, won't necessarily be exempt, either, EPA said. "EPA is also continuing to explore applying these new ESA approaches to new biopesticide AIs and new antimicrobial AIs," the agency wrote in its announcement.

See the full schedule of pesticide re-registrations here: <https://www.epa.gov/...>

(Progressive Farmer, January 21, 2022)
<https://www.dtnpf.com/agriculture/web/ag/crops/article/2022/01/21/endangered-species-act-means-ag-use>

CEU Meetings

Please note that many of these meetings are now being done virtual. Please contact the meeting host directly if you have any questions.

Date: February 2, 2022

Title: ONLA 5 Important Ornamental Insects & Mites

Location: Webinar

Contact: ONLA (405) 945-6737

CEU's: Category(s):

1 3A

1 3C

1 10

https://us02web.zoom.us/webinar/register/WN_CVtsRA4IRoG96Tzrt20zhg

Date: February 8-10, 2022

Title: Target Specialty Products Texas Winter Workshop 2022

Location: Plano TX

Contact: Jennifer Gonzalez (800) 352-3870

<https://www.target-specialty.com/sites/default/files/Plano%20Workshop%202022%20%281%29.pdf>

CEU's: Category(s):

1 7A

1 7B

Date: February 10, 2022

Title: Payne County Spring Pasture & Forage Improvements

Location: Stillwater/Payne County

Contact: Nathan Anderson (405) 747-8320

CEU's: Category(s):

2 1A

Date: February 24, 2022

Title: Veseris 2022 Annual CEU Workshop

Location: Stoney Creek Hotel

& Conference Center Broken Arrow, OK

Contact: Deb Chambers (918) 622-2048

https://www.ok-pca.com/uploads/forms_11_325371235.pdf

CEU's:	Category(s):
1	3A
3	7A
2	7B
1	8

Date: March 1-2, 2022

Location: The Champion Convention Center

Oklahoma City OK

Contact: Kathy Markham (918) 256-9302

<https://okvma.com/conferences/>

CEU's:	Category(s):
TBA	A
TBA	3A
TBA	5
TBA	6

ODAFF Approved Online CEU Course Links

Online Pest Control Courses

<https://www.onlinepestcontrolcourses.com/>

PestED.com

<https://www.pested.com/>

Certified Training Institute

<https://www.certifiedtraininginstitute.com/>

WSU URBAN IPM AND PESTICIDE SAFETY EDUCATION PROGRAM

<https://pep.wsu.edu/rct/recertonline/>

CEU University

<http://www.ceuschool.org/>

Technical Learning College

<http://www.abctlc.com/>

All Star Pro Training

www.allstarce.com

Wood Destroying Organism Inspection Course

www.nachi.org/wdocourse.htm

CTN Educational Services Inc

http://ctnedu.com/oklahoma_applicator_enroll.html

Pest Network

<http://www.pestnetwork.com/>

Veseris

<http://www.pestweb.com/>

AG CEU Online

<https://agceuonline.com/courses/state/37>

Target Specialty Products Online Training

<https://www.target-specialty.com/training/online-training>

For more information and an updated list of CEU meetings, click on this link:

<http://www.kellysolutions.com/OK/applicators/courses/searchCourseTitle.asp>

ODAFF Test Information

Testing will be done at testing centers in multiple locations around the state by PSI Services LLC.

For more information and instructions, please go to <https://bit.ly/3sF4y0x>.

Reservation must be made in advance at www.psiexams.com/ or call **855-579-4643**

PSI locations.

Oklahoma City 3800 N Classen Blvd, Ste C-20,
Oklahoma City, OK 73118

Tulsa 2816 East 51st Street, Suite 101, Tulsa, OK
74105

McAlester 21 East Carl Albert Parkway (US Hwy 270),
McAlester, Oklahoma 74501

Woodward 1915 Oklahoma Ave, Suite 3, Woodward,
OK 73801

Lawton Great Plains Technology Center, 4500 West
Lee Blvd Building 300- RM 308, Lawton, OK 73505

Enid Autry Technology Center, 1201 W. Willow Rd,
Enid, OK 73703

Ponca City Pioneer Technology Center, 2101 N Ash,
Ponca City, OK 74601

Norman Moore Norman Technology Center, 4701
12th Ave NW, Norman, Oklahoma, 73070

If you have questions on pesticide certification. Please
email or call:

Kevin Shelton
405-744-1060 kevin.shelton@okstate.edu or

Charles Luper
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Find us on Twitter at @OkstatePestEd

Pesticide Safety
Education Program