CropLife AMERICA

POSITION PAPER

Endangered Species Act

Background

The Endangered Species Act (ESA) was enacted in 1973 to conserve threatened and endangered species. A species of plant or animal is considered endangered if it is in danger of extinction throughout all or a significant portion of its range. A species is considered threatened if it is likely to become an endangered species within the foreseeable future. When the law was enacted, there were 109 species listed for protection. Today, there are over 1,000 plant and animal species listed as threatened or endangered in the United States.

The ESA has not been updated or improved during its 30-year history despite significant concerns about its lack of flexibility and its poor success rate for species recovery (i.e., less than one percent over the last three decades). The crop protection industry joins a growing consensus of impacted local communities, agricultural organizations, industries and other stakeholders that believe this well-intentioned law is not working as it should.

The Fish and Wildlife Service and the National Marine Fisheries Service (the Services), in consultation with the Environmental Protection Agency (EPA), developed Counterpart Regulations to streamline the assessment and consultation process that EPA and the Services use to identify potential pesticide effects on endangered species. The Counterpart Regulations became effective in September 2004. EPA's Endangered Species Protection Program (ESPP) for pesticides, which was finalized in 2005, established an enhanced system of county bulletins to communicate necessary pesticide-use restrictions to farmers and applicators.

Unfortunately, the Counterpart Regulations have not been fully implemented due to lawsuits. Recently, portions of the Counterpart Regulations were invalidated in one district of Washington State. Activists allege that EPA's methodology for assessing risks to endangered species is inadequate. However, these legal battles have slowed down EPA efforts to assess potential pesticide risks to listed species by diverting scarce Agency resources to litigation instead of environmental protection.

Pesticide products help maintain habitat for endangered species by controlling the growth of noxious and harmful weeds that invade their habitat. In fact, herbicides used in various rights-of-way have enabled endangered orchids to flourish in areas where they were thought to be extinct. Delaying the registration or re-registration of pesticides that are useful in habitat preservation negatively impacts the very species that the ESA is intended to protect.

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- CropLife America supports legislative efforts to modernize the ESA. CropLife America and its members support practical, balanced and scientifically-sound amendments to the ESA to make it effective in recovering and saving species at risk. CropLife America encourages Congress to amend the ESA in a way that improves the availability of new technology and crop protection products for species habitat recovery.

- CropLife America believes that effects determinations and consultations for endangered species must be streamlined through ESA reform. CropLife America also believes that any ESA reform effort needs to recognize that the Federal Insecticide, Fungicide and Rodenticide Act prohibits the registration of any pesticide until its safety is rigorously tested.

- The crop protection industry is not seeking an exemption from ESA requirements. A fair and open regulatory process based on good science that preserves farmer's ability to produce the nation's food and fiber is essential for American agriculture.

- The standards for designating critical habitat and ensuring its protection must be revised to make the process practically achievable without seriously harming agriculture or incurring exorbitant legal fees.

- CropLife America believes that a sensible and equitable ESA program is essential. Practical and effective public policy to address this complex issue is needed. The court system should not be used to determine the appropriate and safe uses of crop protection products essential for farmers to grow crops, or hampering the ability of public health officials to guard against infestation and disease vectors.

- Pesticides and technologies to control harmful species can contribute substantially to protection and recovery of endangered species and their habitats. CropLife America advocates the development of incentives in the ESA and in habitat conservation plans for the appropriate use of pesticides.

- The crop protection industry is committed to working with federal agencies, state agencies, and the Congress to provide accurate pesticide use data and other information important to preserving and protecting endangered and threatened species.