



EPA Publishes Update on Herbicide Strategy Progress

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The U.S. Environmental Protection Agency (EPA) is releasing an update to its draft Herbicide Strategy, which is part of the Agency's plan to improve how it meets its Endangered Species Act (ESA) obligations. The purpose of this update is to describe some improvements that EPA plans to make as it continues finalizing the strategy to increase flexibility and improve ease of implementation while still protecting federally listed species. The Agency expects to publish the final strategy in August 2024.

The draft strategy, which EPA released for public comments in July 2023, describes whether, how much, and where mitigations may be needed to protect listed species from agricultural uses of conventional herbicides. The goal is for EPA to use the strategy to proactively determine mitigations for registration and registration review actions for herbicides even before EPA, the U.S. Fish and Wildlife Service (FWS), and the National Marine Fisheries Service (NMFS) formally complete the lengthy ESA determination on whether an herbicide has effects on a listed species. By adopting these early mitigations, EPA can begin protecting listed species while FWS and NMFS are making their ESA determinations.

The strategy itself does not impose any requirements or restrictions on pesticide use. Rather, EPA will use the strategy to inform mitigations for new active ingredient registrations and registration review of conventional herbicides. Thus, for any herbicide, mitigations from the strategy will not become effective until EPA adopts labels (following public comment) for that herbicide as part of a new active ingredient registration or registration review decision.

EPA received extensive comments on the draft strategy, with many reiterating the importance of protecting listed species from herbicides. Commenters also identified concerns with specific aspects of the draft strategy and suggested revisions. EPA plans to make a number of improvements to the draft based on this feedback, with the primary changes falling into three categories.

- Making the strategy easier to understand. Many commenters noted the complexity of the strategy to determine the amount of mitigation a label requires for a particular pesticide—up to nine points of mitigation. In response, EPA is simplifying its approach, such as by using four tiers—none, low, medium, high—to describe the amount of mitigation that may be needed for each herbicide. EPA also plans to create educational materials that concisely explain the four-tier mitigation approach.

- Increasing flexibility for growers to implement the mitigation measures in the strategy. EPA expects to expand its mitigation measures, especially for specialty crops such as cherries and mint, to include new measures such as erosion barriers, reservoir tillage, and soil carbon amendments. EPA is also working with the U.S. Department of Agriculture (USDA) and other organizations to identify other measures to add to the mitigation menu that can reduce pesticide runoff and erosion. In May 2024, for example, the EPA and USDA will host a workshop with agricultural stakeholders to identify other possible measures to add to the menu.
- Reducing the amount of mitigation that may be needed when growers have already adopted voluntary practices to reduce pesticide runoff or where runoff potential is lower due to geography. For example, in areas of the country with flat lands or minimal precipitation where runoff potential is low, growers may need less or no additional measures to use agricultural herbicides, compared to what is currently in the draft strategy. EPA is also considering whether growers could meet any necessary mitigation requirements if they participate in agricultural conservation programs or work with qualified experts to design and implement mitigation measures.

In addition to these types of improvements, EPA is also working on other changes to the Herbicide Strategy and how it is implemented. For many listed species, the maps used in the draft strategy for determining where mitigation measures would apply are often too broad, covering areas not needed to conserve the species. EPA is working with FWS and others to develop a process for refining maps for hundreds of species. This process could then be used by applicants for registration actions and by others to produce draft maps for the agencies to consider. Through this work, EPA expects that the land area subject to the pesticide restrictions under the final strategy could shrink for many species.

EPA appreciates the thoughtful perspectives from multiple stakeholders on the draft strategy and other ESA efforts. EPA continues to consider the public comments, meet with stakeholders, and collaborate with FWS, USDA, and state agencies. EPA expects to publish the final strategy by August 30, 2024.

The full update, along with additional details regarding the strategy, are available in the public docket EPA-HQ-OPP-2023-0365 at www.regulations.gov [<https://www.regulations.gov/>](https://www.regulations.gov/) and on EPA's website <https://epa.gov/endangered-species/biological-opinions-available-public-comment-links-final-opinions-and-links>.

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