

ESA SME Liaison to EPA OPP Report for March 15, 2022 - May 18, 2022

Submitted by Allan Felsot (afelsot@wsu.edu), Washington State University

During May I attended two webinars with subject matter of interest to ESA members. First, the American Chemical Society's AGRO Division, in which I've been a long-time member, has been hosting bimonthly webinars. On May 11th, I attended a webinar presentation by Professor David Mota-Sanchez (Michigan State University, Department of Entomology) titled, "Magnitude of the arthropod resistance to pesticides since the last century to the present time". Dr. Mota-Sanchez directs the long-running Arthropod Pesticide Resistance database, first developed by former EPA SME Liaison, Emeritus Professor Mark Whalon (<https://www.pesticideresistance.org>). In addition to showing the audience the kinds of information collected into the database and the kinds of searches possible, Dr. Mota-Sanchez provided a few graphs that showed the most recent data on number of unique resistance cases and the insecticide classes involved with resistance observations. The database acquires and vets information from field observations, especially those that are reported in the primary research literature. As of April 2022, 625 species of insects/mites have been reported to exhibit resistance, which represents 17,870 case reports involving 360 different compounds.

On May 16th I attended a USDA Office of Pest Management Policy sponsored webinar hosting EPA staff scientists involved with the Endangered Species Act work plans that set out objectives for meeting the agency's obligations for consultation under the ESA. Further details about this work plan are shown under 'Endangered Species News'. The webinar covered the main objectives of EPA's action plan and much of the time was spent on a Q&A session that seemed dominated by pesticide registrants. Pertinently, the webinar covered the problems that EPA was having in meeting its ESA requirement for consultation with priority agencies that manage listings of threatened and endangered species, such as the National Marine Fisheries Service (now called NOAA Fisheries) and the US Dept of Fish & Wildlife. One issue was that EPA was spending a lot of resources responding to lawsuits. One staff member showed a chart illustrating how many FTEs (full-time equivalent employees) were devoted to working on assessments for potential impact of pesticide registration decisions on listed species. The agency made a strong case that it was inadequately staffed presently to meet its obligations in a timely manner. Thus, if the process seemed slow in re-registering older or registered new compounds, lack of sufficient staff was one plausible explanation.

Endangered Species News

EPA Announces Plan to Protect Endangered Species and Support Sustainable Agriculture (April 12, 2022); <https://www.epa.gov/newsreleases/epa-announces-plan-protect-endangered-species-and-support-sustainable-agriculture>

EPA "released its first-ever comprehensive workplan to address the decades-old challenge of protecting endangered species from pesticides. The plan establishes four overall strategies and dozens of actions to adopt those protections while providing farmers, public health authorities, and others with access to pesticides." The work plan document can be downloaded from the website announcement as a PDF file. The official title of the workplan is "Balancing Wildlife Protection and Responsible Pesticide Use: How EPA's Pesticide Program Will Meet Endangered Species Act Obligations". After laying out some problems the agency faces in dealing with ESA related risk assessments, the plan provides some detail for four strategies to meet its obligation and simultaneously promote better transparency with stakeholders.

- Strategy 1: Meet ESA obligation for FIFRA Actions
- Strategy 2: Improve approaches to ESA mitigation
- Strategy 3: Improve interagency consultation process
- Strategy 4: Improve stakeholder engagement

The April announcement follows from a January 2022 announcement by EPA regarding their intention to make part of its risk assessment before any new conventional active ingredient is registered the potential effects on listed threatened or endangered species, and their designated critical habitats. The agency will initiate pro forma ESA consultation with the U.S. Fish and Wildlife Service and the National Marine Fisheries Service (the Services), as appropriate. The objective of this change in policy for registering new compounds is to avoid future lawsuits from environmental advocacy groups. See <https://www.epa.gov/newsreleases/epa-announces-endangered-species-act-protection-policy-new-pesticides>.

EPA Announces Virtual Environmental Modeling Public Meeting on Endangered Species; Calls for Abstracts (May 10, 2022); <https://www.epa.gov/pesticides/epa-announces-virtual-environmental-modeling-public-meeting-endangered-species-calls>

“On June 23, 2022, the U.S. Environmental Protection Agency (EPA) will hold a virtual Environmental Modeling Public Meeting (EMPM) to engage with stakeholders on EPA’s recently released Endangered Species Act Workplan, with a focus on mitigation strategies.” The public notice about the meeting can be accessed directly at URL: <https://www.regulations.gov/document/EPA-HQ-OPP-2009-0879-0201>. In the public notice about the meeting, EPA states, “The 2022 EMPM will provide a forum for presentations on the incorporation of analyses into environmental exposure and ecological risk assessments, meant to comply with the Endangered Species Act, with a focus on practical solutions to avoid, minimize or offset potential effects to Federally Listed endangered and threatened species and designated critical habitats.”

Directions for registering for the meeting are embedded in the public notice linked above. Note the following specific directions from the public notice: “To register to attend and/or to present at this virtual meeting, please send an email to *OPP_EMPM@epa.gov*. You must register *via* email to receive the webcast meeting link and audio teleconference information for participation. Registrants will be added to the “empmlist” LYRIS list server (https://lists.epa.gov/read/all_forums/). Meeting updates and participation information will be distributed through “empmlist”.” The deadline for notifying EPA of your interest in attending the meeting is June 16, 2022.

Although the Environmental Modeling workshops, now hosted online in a webinar format, tend to focus on exposure assessment issues and thus heavily focused on applications of analytical and environmental chemistry, some presentations may be of interest to ESA members. For example, documents associated with the environmental modeling workshops are posted to the docket in regulations.gov. One particular presentation of interest is titled, “Application of pesticide usage data in endangered species risk assessments” (docket no. EPA-HQ-OPP-2009-0879-0177). This PowerPoint file can be accessed at URL: <https://www.regulations.gov/document/EPA-HQ-OPP-2009-0879-0177>.

Other EPA Announcements of ESA Member Interest

IPM Pest Management Seminar Series.

On May 24, 2022 from 1-4:30 pm EDT, EPA is holding an IPM webinar titled, “Managing Common Indoor Pests: Cockroaches, Rodents and Fleas”. “This free webinar will combine previously aired presentations covering three of the most notorious household pests – cockroaches, rodents and fleas. Each webinar will be followed by a 10-minute live question and answer session providing participants with the opportunity to engage with experts on the latest management tactics.” One can access the registration page at URL <https://register.gotowebinar.com/register/7930153265782071822>.

The U.S. EPA Office of Pesticide Programs will hold a meeting of the Pesticide Program Dialogue Committee [PPDC] on May 25th and 26th, 2022. (April 22, 2022); <https://www.epa.gov/pesticides/epa-holds-virtual-pesticide-program-dialogue-committee-meeting-may>

The PPDC meetings are one mechanism that EPA uses to get feedback from appointed stakeholder groups. This two day meeting is online and interested parties in attending can register at URL <https://www.eventbrite.com/e/us-epa-pesticide-program-dialogue-committee-meeting-may-25-26-2022-tickets-322640545557>. Specific topics to be discussed by the PPDC of interest to ESA members will be recommendations on managing pesticide resistance, regulating emerging agricultural technologies, and next steps for implementing the Endangered Species Act.

EPA Finalizes Certain Pesticide Product Performance Data Requirements to Improve Clarity and Reduce Burden for Registrants (April 15, 2022); <https://www.epa.gov/pesticides/epa-finalizes-certain-pesticide-product-performance-data-requirements-improve-clarity>

EPA's required tests necessary to generate data for pesticide registration decisions are codified in FIFRA and the guidelines for developing testing protocols are publicly available at the agency's website titled "Test Guidelines for Pesticides and Toxic Substances" (<https://www.epa.gov/test-guidelines-pesticides-and-toxic-substances/final-test-guidelines-pesticides-and-toxic>). Series 810 guidelines specifically focus on disinfectants ("antimicrobial efficacy test guidelines" and "invertebrate control agents" (<https://www.epa.gov/test-guidelines-pesticides-and-toxic-substances/series-810-product-performance-test-guidelines>)). Following the link at the bottom of the Series 810 guidelines website will take you to the website that addresses, "Efficacy label claims and associated efficacy testing, experimental design for efficacy studies, and efficacy data and protocol submissions" (<https://www.epa.gov/pesticide-registration/guidance-efficacy-testing-pesticides-targeting-certain-invertebrate-pests#efficacystudy>).

During April, EPA updated testing guidelines for pesticide product performance against three category of insect pests:

- Pests of significant public health importance (e.g., ticks, mosquitoes, cockroaches, etc.),
- Wood-destroying insects (e.g., termites), and
- Certain invasive invertebrate species (e.g., Asian long-horned beetle)

The agency action codified testing guideline into the Code of Federal Regulations (CFR) for those three category of pests (40 CFR part 158, "Data Requirements for Pesticides). Prior to this rulemaking action, invertebrate pests were not explicitly listed under the guidelines. A new subpart R was codified to incorporate those insect pests of both human health concern and structural concerns. The Federal Register URL for the rulemaking action is <https://www.federalregister.gov/documents/2022/04/15/2022-07963/pesticide-product-performance-data-requirements-for-products-claiming-efficacy-against-certain>. EPA's economic analysis of the rule amendment suggests that a registrant will save \$17,000 per submitted data package and will reduce waste and unnecessary testing.