



## Memorandum

December 13, 2006

To: State Association Executive Directors  
State Association Presidents

From: Bob Rosenberg  
Gene Harrington

Cc: NPMA Board of Directors  
NPMA Government Affairs Committee

Re: Pending U.S. EPA Initiative – Endangered Species Protection Program

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The U.S. Environmental Protection Agency (EPA) is presently working on two major, far-reaching initiatives that will impact pest management professionals (PMPs) and other pesticide users. Included in this communication is a brief description of the recently implemented Endangered Species Protection Program (ESPP), as well as a short article you can use to run in your state association newsletter. We will send a second communication next month and an accompanying newsletter article, focusing on the other, longer-term project: EPA's revisions to its certification and training regulations.

### **Endangered Species Protection Program**

The Endangered Species Act of 1973 requires EPA and all other federal agencies to take steps to protect federally listed threatened and endangered species. To that end, EPA has worked for more than 20 years to communicate to pesticide users steps applicators can take to avoid potentially exposing threatened and endangered species to pesticides.

The Agency's implementation of the initiative – the Endangered Species Protection Program – has been complicated, hampered and delayed because of the difficulty involved in developing a system that conveys information to pesticide users about individual endangered species located in specific geographic areas. Many of those logistical hurdles, however, have recently been addressed – largely due to the popularity of and the virtually universal access to the Internet - and ESPP recently went into effect.

Under ESPP, pesticide labels, as appropriate, will refer users to geographically specific Endangered Species Protection Bulletins that will contain enforceable use limitations for the pesticide user to ensure the pesticide's use will not jeopardize the continued existence of a listed species. This means the product labels of pesticides that might pose a potential risk to a federally listed threatened or endangered species or its habitat will direct PMPs and other users to an EPA website (<http://www.epa.gov/espp/>) and toll-free number (1-800-447-3813) where they can obtain a county Bulletin. (Few, if any, current product labels contain language referring users to the EPA website and county Bulletins, however, such language will be added to labels as individual pesticides are reevaluated for use by EPA. EPA will mail the county Bulletin to users who call the toll free number.) **EPA has said that products labeled only for use indoors, and where the applied pesticide remains indoor, will not be subject to ESPP.**

The Bulletin will inform PMPs and other users of the counties and parishes in which they will be subject to use limitations. The Bulletins PMPs and other applicators copy from the website or obtain via the toll free number will be good for six months, after which time PMPs and other applicators will have to revisit the site (or call the toll free number) and obtain another copy of the Bulletin. Failing to access the website and copy a Bulletin (or obtain it from the toll free number), if directed so by language on the product label, will constitute a label violation. Applications that adversely impact a federal listed threatened or endangered species could also constitute an Endangered Species Act violation.

**Example:** A PMP is getting set to make an outdoor application in a particular county, using a pesticide bearing language directing him or her to the EPA website or toll-free number. Before using the product, the PMP must go to the website (or call the toll free number) and access the county Bulletin to check whether or not the use of the product is subject to any use limitations because of federally listed threatened or endangered species or their critical habitat. The PMP copies the Bulletin and files the information with his or her use records.

Use limitations could include a prohibition on the use of the product, a prohibition on the use of the product in certain areas of a county or during certain months, (i.e., Do not use this pesticide within 100 yards of the water's edge for ground applications) or a reduced use rate. The PMP would then have to go to the website every six months to obtain the county Bulletin.

Below is the language PMPs and other applicators will soon see on product labels directing them to the website and toll-free number to obtain a Bulletin.

*Directions for Use: **Endangered Species Protection Requirements***

*This product may have effects on federally listed threatened or endangered species or their critical habitat in some locations. When you use this product, you must follow the measures contained in the Endangered Species Protection Bulletin for the county or parish in which you are applying the pesticide. To determine whether your county or parish has a Bulletin, and to obtain that Bulletin, consult <http://www.epa.gov/espp/>, or call 1-800-447-3813 no more than 6 months before using this product. Applicators must use Bulletins that are in effect in the month in which the pesticide will be applied. New Bulletins will generally be available from the above sources 6 months prior to their effective dates.*

Below is an article we plan to run in our next PestWorld newsletter. We encourage you to use the article for your newsletters as well. Should you have any questions regarding this memo, please feel free to contact us at 800-678-6722 or [gharrington@pestworld.org](mailto:gharrington@pestworld.org) or [Rosenberg@pestworld.org](mailto:Rosenberg@pestworld.org).

**Language Aimed at Protecting Endangered Species Soon to Appear on Pesticide Labels**

Product labels for pesticides the U.S. Environmental Protection Agency (EPA) believes may affect federally listed threatened and endangered species or their critical habitat will soon contain generic language referring pest management professionals (PMPs) and other pesticide applicators to an EPA website or toll-free number to obtain geographically specific Endangered Species Protection Bulletins that will contain enforceable use limitations. Bulletins will be county or parish specific.

The initiative, the Endangered Species Protection Program (ESPP), requires PMPs and other applicators to, when directed by the label, visit the EPA website or call the toll free number to see if the county Bulletin contains information relevant to their use. Even if the information contained in the county Bulletin is not relevant to the intended use of the pesticide, PMPs and other applicators must still copy or download the county Bulletin. Bulletins will be good for six months, at which time applicators will need revisit the website (or call the toll free number) to again obtain the county Bulletin. **EPA has stated that pesticides bearing label directions only for use indoors, and where the applied product remains indoors, will not be subject to ESPP.**

While relatively few products and even fewer uses will be impacted, PMPs and other applicators who ignore label language directing them to obtain a county Bulletin from the website or toll free number run the risk of violating labeling directions. Few, if any, product labels currently contain language directing end users to obtain a county Bulletin, however, such language will be added as EPA registers new active ingredients or during its registration review program.

Applications that adversely impact a federally listed threatened or endangered species could constitute an Endangered Species Act violation, in addition to an enforceable label violation. PMPs are encouraged to visit the ESPP website at <http://www.epa.gov/espp> and familiarize themselves with the county Bulletins.

#### NPMA Recommendations

1. Review the label of every product you use to determine whether it contains endangered species prohibitions.
2. If the label does contain endangered species language, check the internet or call EPA's toll-free number before using the product.
3. Do not use the product in a manner inconsistent with the county Bulletin (which is an extension of the product's label).
4. Maintain a copy of the county Bulletin in your files.
5. Recheck the labels of products you use at least once every six months for the generic label statement about county Bulletins.

If you have questions or need further information, contact NPMA at (800) 352-6762.