

**INTERAGENCY JOINT STATEMENT OF COOPERATION FOR PESTICIDES AND LISTED SPECIES
CONSERVATION, RECOVERY, AND CONSULTATION PURSUANT TO SECTIONS 7(A)(1) AND
7(A)(2) OF THE ENDANGERED SPECIES ACT
BETWEEN
THE U.S. ENVIRONMENTAL PROTECTION AGENCY
AND
THE U.S. FISH AND WILDLIFE SERVICE**

I. Purpose

This Interagency Section 7 Consultation Joint Statement of Cooperation (Joint Statement) is made and entered into by the U.S. Fish and Wildlife Service (FWS) and the U.S. Environmental Protection Agency (EPA) Office of Pesticide Programs.

This Joint Statement sets forth the terms and understanding between the EPA and FWS, hereinafter “the Parties,” for furthering section 7(a)(1) and 7(a)(2) compliance and consultation pursuant to the federal Endangered Species Act (ESA), as amended (16 U.S.C. §1531 et seq.) as these sections apply to conventional pesticide actions taken under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (7 U.S.C. 136 et seq.). This Joint Statement focuses on actions and approaches relevant to conventional¹ pesticides because EPA’s current efforts prioritize ESA approaches for conventional pesticides. In the future, this Joint Statement could be amended to apply to other types of pesticides, including biopesticides² and antimicrobials³. Section 7(a)(1) of the ESA requires all federal agencies, in consultation with the Services⁴, to use their authorities in furtherance of the purposes of the ESA by carrying out programs for the conservation and recovery of federally listed threatened and endangered (“listed”) species (16 U.S.C. § 1536(a)(1)). Section 7(a)(2) requires federal agencies, in consultation with the FWS, to ensure that any action they authorize, fund, or carry out, is not likely to jeopardize the continued existence of any listed species or result in the destruction or adverse modification of critical habitat (16 U.S.C. § 1536(a)(2)).

The purpose of this Joint Statement is to establish a formal understanding between the Parties on the contents of EPA’s section 7(a)(1)/7(a)(2) Plan to conserve species and streamline section

¹ Conventional active ingredients are generally produced synthetically (*i.e.*, synthetic chemicals that prevent, mitigate, destroy, or repel a pest or that act as a plant growth regulator, desiccant, defoliant, or nitrogen stabilizer).

² Biopesticides are certain types of pesticides derived from such natural materials as animals, plants, bacteria, and certain minerals. Biopesticides fall into three major classifications: Biochemical, Microbial, and Plant-Incorporated Protectants.

³ Antimicrobial pesticides are intended to disinfect, sanitize, reduce, or mitigate growth or development of microbiological organisms or protect inanimate objects, industrial processes or systems, surfaces, water, or other chemical substances from contamination, fouling, or deterioration caused by bacteria, viruses, fungi, protozoa, algae, or slime.

⁴ “The Services” refers to the US Fish and Wildlife Service and National Marine Fisheries Service. This Joint Statement applies specifically to the Fish and Wildlife Service.

7(a)(2) consultation for conventional pesticides⁵ (hereinafter “EPA’s Plan”). EPA’s Plan provides more detailed information on the efforts described below and should be considered a companion document to this Joint Statement. EPA’s Office of Pesticide Programs (OPP) within the Office of Chemical Safety and Pollution Prevention has developed EPA’s Plan of how the Agency will continue to promote the conservation and recovery of listed species by identifying conservation measures via the development of multi-chemical approaches (e.g., Herbicide Strategy⁶) to reduce population-level impacts from pesticide use prior to initiating or completing section 7(a)(2) consultation. Identifying the applicable conservation measures from the multi-chemical approaches to be considered in EPA pesticide ecological assessments will lead to streamlined ESA section 7(a)(2) consultation with FWS.⁷

Representatives from the Parties worked together to develop EPA’s Plan, with EPA drafting the plan and FWS providing input. This Joint Statement is the result of successful coordination between the Parties on section 7(a)(2) pesticide consultations and development of EPA’s Plan for species conservation and streamlined consultation, and the multi-chemical approaches described below.

II. Goals

This Joint Statement is intended to:

- 1) Further the conservation and recovery of listed species under section 7(a)(1) of the ESA for conventional pesticide actions; and
- 2) Streamline section 7(a)(2) consultations for conventional pesticide registration actions.

EPA plans to accomplish these goals by identifying measures that may decrease pesticide exposures to listed species at a landscape scale and thus, during section 7(a)(2) consultation with FWS, reduce the likelihood of population-level impacts to groups of listed species as described in EPA’s Plan.

III. Background

FWS is a federal agency within the Department of the Interior whose mission is to conserve, protect, and enhance fish, wildlife, and plants and their habitats for the continuing benefit of the American people. The Secretary of the Interior administers the ESA through the FWS, which is responsible for implementing the ESA with respect to certain species, generally listed terrestrial and freshwater species.⁸

⁵ Titled: Addressing Endangered Species Act 7(a)(1) and 7(a)(2) Obligations: Plan to Promote the Recovery of Species and Streamline Consultation for Conventional Pesticides and Endangered Species Act Listed Species Under the Authority of the US Fish and Wildlife Service. Developed by EPA’s Office of Pesticide Programs.

⁶ Available online at: <https://www.epa.gov/endangered-species/strategy-protect-endangered-species-herbicides>

⁷ The term “consultation” includes conferencing with USFWS on species proposed for listing under the ESA. See the definition of “Conference” below.

⁸ EPA is separately addressing potential impacts of pesticides to listed species and critical habitats under the jurisdiction of the National Marine Fisheries Service.

The mission of EPA is to protect human health and the environment. OPP contributes to achieving EPA's mission through regulation of pesticides. OPP regulates the registration, sale, distribution, and use of pesticides under FIFRA⁹. The ESA applies to many of EPA's FIFRA decisions.

Compliance with ESA section 7(a)(1) may assist with a Federal agency's responsibilities under section 7(a)(2).¹⁰ For example, if an agency's actions, consistent with ESA section 7(a)(1), moves listed species closer to being recovered and then the agency's activities trigger the need to consult under section 7(a)(2) for that species, the likelihood that FWS will find jeopardy or adverse modification is expected to be reduced. Similarly, federal programs for the recovery of species may preclude the need for formal consultation under section 7(a)(2) altogether where the conservation measures taken pursuant to section 7(a)(1) have avoided adverse impacts to the species. Additional information on how EPA is further improving how it meets its obligations under the ESA can be found in section 1 of EPA's Plan.

The vision for EPA's FIFRA-ESA work rests on a definition of "success" through which EPA is protecting ESA-listed species and their critical habitats from pesticide effects to an extent that fulfills the Agency's obligations under all federal laws, while minimizing impacts to pesticide users, supporting the development of safer technologies to control important pests in various sectors (*e.g.*, public health, agriculture), and completing timely pesticide registration decisions.¹¹ As part of this vision, the public would see EPA as a trusted expert in protecting listed species through its pesticide decisions, using real-world, up-to-date information. This vision includes four overarching approaches: (1) prioritizing efforts so that EPA can further improve how the Agency meets its ESA obligations for FIFRA actions; (2) improving processes for identifying and requiring protections to address pesticide impacts to listed species prior to any necessary consultation with FWS; (3) improving the efficiency and timeliness of the consultation process with FWS; and (4) engaging stakeholders¹².

IV. Authorities

The authorities for this Joint Statement are FIFRA and the ESA. FIFRA governs the registration, distribution, sale, and use of pesticides in the United States. The ESA provides a means to protect threatened and endangered species and their ecosystems.

⁹ EPA also regulates pesticides under Federal Food, Drug, and Cosmetic Act (FFDCA). Under the FFDCA, EPA sets tolerances for pesticide residues on food.

¹⁰ See the USFWS memo, "Federal Agency Obligations under Section 7(a)(1) of the Endangered Species Act". <https://www.fws.gov/media/federal-agency-obligations-under-section-7a1-endangered-species-act>.

¹¹ See EPA's workplan, "Balancing Wildlife Protection and Responsible Pesticide Use". https://www.epa.gov/system/files/documents/2022-04/balancing-wildlife-protection-and-responsible-pesticide-use_final.pdf.

¹² <https://www.epa.gov/endangered-species/about-endangered-species-protection-program#public>

Section 2(c) of the ESA declared the policy of Congress that all federal departments and agencies shall seek to conserve endangered species and threatened species and shall utilize their authorities in furtherance of the purposes of ESA (16 U.S.C. § 1531(c)(1)).

Section 7(a)(1) of the ESA requires all federal agencies, in consultation with and with the assistance of the Secretaries of the Interior¹³ or Commerce, to carry out programs within their authorities to advance the recovery of endangered and threatened species (16 U.S.C. § 1536(a)(1)).

Section 7(a)(2) of the ESA requires that any action authorized, funded, or carried out by federal agencies is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of critical habitat.

V. Definitions

A. “7(a)(1) Consultation” refers to the process under section 7(a)(1) of the ESA that charges federal agencies, in consultation with the FWS, to utilize their authorities in furtherance of the purposes of the ESA to carry out programs for the conservation and recovery of threatened and endangered species (16 U.S.C. § 1536(a)(1)).

B. “7(a)(2) Consultation” refers to the process under section 7(a)(2) of the ESA that requires federal agencies, in consultation with the FWS, to insure that any action they authorize, fund, or carry out, in the United States or upon the high seas, is not likely to jeopardize the continued existence of any listed species or result in the destruction or adverse modification of critical habitat (16 U.S.C. § 1536(a)(2)).

C. “Destruction or Adverse Modification” means a direct or indirect alteration that appreciably diminishes the value of critical habitat as a whole for the conservation of a listed species (50 C.F.R. § 402.02).

D. “Multi-Chemical Approach” refers to EPA efforts to account for the characteristics of chemicals and identify landscape-scale mitigations, as appropriate, based on location, pesticide class, species or use site. Examples of multi-chemical approaches include the Herbicide Strategy, Insecticide Strategy¹⁴, and Vulnerable Species Action Plan¹⁵. These approaches group federal actions, species, and/or pesticide uses based on their similarities so that EPA can efficiently identify and implement measures to reduce pesticide exposure to listed species. Identification and implementation of these conservation measures in future FIFRA actions are consistent with ESA section 7(a)(1) and should result in streamlined section 7(a)(2) consultation. See section 3 of EPA’s Plan for additional details. Multi-chemical approaches are intended to

¹³ Specifically delegated to FWS.

¹⁴ The Insecticide Strategy is currently in development and is currently considered draft. Available at: <https://www.regulations.gov/docket/EPA-HQ-OPP-2024-0299/document>.

¹⁵ <https://www.epa.gov/endangered-species/action-plan-protect-vulnerable-species-pesticides>

improve efficiency and consistency among pesticides.¹⁶

E. “Conference” is a process which involves informal discussions between a Federal agency and the Service under section 7(a)(4) of the Act regarding the impact of an action on proposed species or proposed critical habitat and recommendations to minimize or avoid the adverse effects (50 C.F.R. § 402.02).

F. “Conservation” means the use of all methods and procedures which are necessary to bring any endangered species or threatened species to the point at which the measures provided pursuant to the ESA are no longer necessary (*See* 16 U.S.C. § 1532(3))

G. “Conservation Measures” means actions to benefit or promote the recovery of listed species that are included by a Federal agency as an integral part of a proposed action. These actions will be taken by the Federal agency, and serve to minimize or compensate for, impacts on the species under review. These may include actions taken prior to the initiation of consultation, or actions which the Federal agency have committed to complete in a biological assessment or similar document (*i.e.*, biological evaluation) (see Section 7 Consultation Handbook¹⁷).

H. “Critical habitat” means the specific areas within the geographical area occupied by the species, at the time it is listed in accordance with the provisions of section 4 of the ESA, on which are found those physical or biological features (a) essential to the conservation of the species and (b) which may require special management considerations or protection. Critical habitat can also include specific areas outside the geographical area occupied by the species at the time it is listed upon a determination by the Secretaries of Interior or Commerce that such areas are essential for the conservation of the species (16 U.S.C. § 1532(5)).

I. “Jeopardy” means to engage in an action that reasonably would be expected, directly or indirectly, to reduce appreciably the likelihood of both the survival and recovery of a listed species in the wild by reducing the reproduction, numbers, or distribution of that species (50 C.F.R. § 402.02)

J. “Landscape” in the context of EPA approaches refers to an area that includes ecosystems or habitats containing multiple listed species populations and a set of pesticide uses that generally have similar practices, impacts, and conservation measures.

K. “Likely to Adversely Affect” refers to an effects determination under the ESA that is appropriate if any adverse effect to a listed species or designated critical habitat may occur as an “effect of the action” (as defined by the ESA section 7 implementing regulations at 50 C.F.R. § 402.02), and the effect of the action is not: discountable, insignificant, or wholly beneficial. This determination requires the initiation of formal section 7(a)(2) consultation with FWS.

¹⁶ These approaches are different than cumulative assessments which consider the totality of exposures across multiple chemicals.

¹⁷ <https://www.fws.gov/sites/default/files/documents/endangered-species-consultation-handbook.pdf>

L. “Listed Species” means species listed or proposed to be listed as threatened or endangered under the federal ESA(50 C.F.R. §17.11).

M. “Mitigation” in the context of this Joint Statement, is defined as a measure or group of measures that reduces pesticide exposures to non-target exposures. EPA commonly uses mitigations to address potential ecological impacts identified under FIFRA and are also used to address impacts to ESA listed species. EPA applies this term to all FIFRA actions, ESA section 7(a)(1) and 7(a)(2). Mitigations may include avoidance, minimization, and offsets.

N. “Not Likely to Adversely Affect” refers to a determination under the ESA that is appropriate when the “effects of the action” (as defined by the ESA section 7 implementing regulations at 50 C.F.R. § 402.02) on listed species or designated critical habitat are expected to be discountable, insignificant, or wholly beneficial. This determination requires informal section 7(a)(2) consultation with FWS; if during informal consultation it is determined by the Federal agency, with the written concurrence of the Service, that the action is not likely to adversely affect listed species or critical habitat, the consultation process is terminated, and no further action is necessary (50 C.F.R. § 402.13).

VI. Acronyms

The following acronyms are used in this Joint Statement.

BE	Biological Evaluation
BiOp	Biological Opinion
BLT	Bulletins Live! Two
EPA	United States Environmental Protection Agency
ESA	Endangered Species Act
FIFRA	Federal Insecticide Fungicide and Rodenticide Act
FWS	United States Fish and Wildlife Service
OPP	Office of Pesticide Programs
ORD	Office of Research and Development
PULA	Pesticide Use Limitation Area
USDA	United States Department of Agriculture

VII. Roles and Responsibilities

The sections below describe the roles and responsibilities of the Parties in advancing EPA’s Plan for promoting the recovery of listed species under section 7(a)(1) and streamlining ESA section 7(a)(2) consultations. The Parties agree to continue to work cooperatively on the current and future multi-chemical approaches detailed in the sections below. This Joint Statement is a voluntary agreement that expresses the good-faith intentions of the Parties. It is not intended to be legally binding, it does not create any contractual obligations, and is not enforceable by any party.

Process for Developing, Finalizing, and Updating Multi-Chemical Approaches

To advance the goals of EPA's Plan, EPA intends to develop, finalize, and implement the multi-chemical approaches described below, as well as other approaches that may be identified in the future (see section 3 of EPA's Plan for more details). FWS intends to provide technical assistance and expertise during the development and implementation process for these multi-chemical approaches. The desired outcome of this coordination is for EPA to finalize multi-chemical approaches that take into account the overall conservation goals of both Parties. The Parties understand that these multi-chemical approaches are intended to be used to streamline consultation on conventional pesticide registration and registration review actions under section 7(a)(2) (discussed below). The following general process should apply in development of such approaches:

- 1) EPA intends to lead the development and implementation of multi-chemical approaches and seek public comment on draft versions of each approach.
- 2) The Parties expect to meet regularly during the development of draft approaches to discuss their scope, progress, methodology, public comments, and other topics as needed.
- 3) EPA intends to seek FWS expert feedback on listed species and critical habitat information used in the approaches and included in the Species Life History and Critical Habitats Database (see "Additional Efforts to Support the Stated Goals" below).
- 4) EPA intends to seek FWS expert feedback on the effectiveness of conservation measures in the approaches to reduce pesticide exposure in protecting listed species and critical habitat.
- 5) Throughout the development of each approach, the Parties expect to work together to resolve any major methodological or conservation measure concerns raised by FWS that could be expected to prevent the approach from achieving its stated purpose. EPA intends to provide FWS with the opportunity to review draft and final documented approaches before EPA releases them.

After the approaches are finalized, EPA anticipates updating them as new information warrants to ensure that these efforts reflect current knowledge as follows:

- 1) When EPA decides that an existing multi-chemical approach needs to be updated, the Agency intends to make updates in coordination with FWS. EPA expects that any decision to update a multi-chemical approach could include consideration of various factors, for example: new information, input from external stakeholders, input from State, Tribal, and Federal government stakeholders, lessons learned in approach implementation, consultation, and available resources. EPA and FWS intend to maintain existing lines of regular communication to be used to ensure that the approaches are appropriately updated, as necessary.
- 2) Minor updates such as those that involve changes to information used in an approach but not to the major framework or methods are not intended to need coordination with FWS. For example, changes to lists of species included in an

approach do not represent major updates.

- 3) If EPA determines that major updates are needed, the Agency intends to seek FWS's feedback on those updates, which may lead to a change to the process or methodology of that approach. The Parties also intend to work together to ensure that the updated approach achieves its stated purpose.

If issues arise between Parties during the development of multi-chemical approaches, the Parties understand that they intend to:

- 1) Seek to resolve issues first at the staff level.
- 2) If issues remain at the staff level, the Assistant Director of Ecological Services at FWS and the Director of OPP, or their designee, will determine how to resolve the issues.

EPA has developed final versions of the following multi-chemical approaches in coordination with FWS and intends to implement them as appropriate. These approaches and associated mitigation support document(s)¹⁸ meet their stated goals, with the option of future updates and/or revisions as described above.

- 1) "Herbicide Strategy Framework to Reduce Exposure of Federally Listed Endangered and Threatened Species and Designated Critical Habitats from the Use of Conventional Agricultural Herbicides"¹⁹
- 2) "Vulnerable Species Action Plan"²⁰
- 3) "Rodenticides: Draft Biological Evaluation, Effects Determinations, and Mitigation Strategy for Federally Listed and Proposed Endangered and Threatened Species and Designated and Proposed Critical Habitats".²¹

Each time an approach is finalized or if one of the final approaches is revised, the Parties intend to add an addendum to this Joint Statement to capture this.

EPA has developed draft versions of the following approaches in collaboration with FWS and intends to implement them once finalized. During development of these approaches, EPA has considered and addressed major comments from FWS and intends to continue to work with FWS to finalize these multi-chemical approaches.

- 1) "Insecticide Strategy to Reduce Exposure of Federally Listed Endangered and Threatened Species and Designated Critical Habitats from the Use of Conventional Agricultural Insecticides".
- 2) Hawai'i: This draft approach focuses on reducing exposure of federally listed endangered and threatened species and critical habitats in Hawai'i across all use sites and all types of conventional pesticides.²²

¹⁸ "Ecological Mitigation Support Document to Support Endangered Species Strategies Version 1.0" Available at: <https://www.regulations.gov/docket/EPA-HQ-OPP-2024-0299/document>.

¹⁹ Available at: <https://www.regulations.gov/docket/EPA-HQ-OPP-2023-0365/document>.

²⁰ See: <https://www.epa.gov/pesticides/epa-finalizes-plan-protect-vulnerable-species>.

²¹ Available at: <https://www.regulations.gov/docket/EPA-HQ-OPP-2023-0567/document>.

²² EPA has not released this strategy for public comments. EPA continues to develop the draft Hawai'i Strategy.

In addition, EPA has committed to developing an approach focused on the application of fungicides to agricultural use sites in the contiguous U.S and to finalize it no later than November 2026.²³ As described in EPA's November 2023 ESA Workplan Update²⁴, EPA may initiate the development of additional approaches in the future²⁵ and in such cases, the Parties expect to follow the process for developing, finalizing, and updating Multi-Chemical Approaches as described within this section.

Section 7(a)(2) Streamlined Consultation

The Parties intend to work together to develop a streamlined consultation approach for conventional pesticide registration and registration review actions needing consultation under ESA section 7(a)(2) as follows:

- 1) Incorporate methodologies and activities defined in EPA's Plan into Biological Evaluations (BEs) and Biological Opinions (BiOps) during section 7(a)(2) consultation on conventional pesticide registrations and registration reviews under FIFRA. Any action that incorporates the final approaches is likely to result in a more efficient section 7(a)(2) consultation because the measures to reduce the potential for population-level impacts would be part of the proposed action, and thus could reduce the likelihood of a future jeopardy or adverse modification finding.
- 2) Because the Parties understand that the measures in the multi-chemical approaches reduce the potential for population-level impacts, EPA intends to use and document in its BE any applicable final multi-chemical approach to predict and identify mitigations to address any identified potential for population-level impacts for species and critical habitats and exposure routes within the scope of a multi-chemical approach. During consultation, FWS will review the information in EPA's BE and use the best scientific and commercial information available to make the final determination on whether the proposed action is likely to jeopardize the existence of any listed species or destroy or adversely modify critical habitat. To streamline the consultations, FWS will use EPA's population-level impact findings and proposed mitigations to inform the jeopardy/adverse modification findings. The best scientific and commercial information available may include new information provided by registrants/applicants during the consultation process. *See* 50 C.F.R. § 402.14(d).

As part of consultations, FWS and EPA will also consider those species, applicable exposure routes, and other factors that are not specifically addressed by any multi-chemical approach. This process is expected to improve the efficiency of consultation, ensure chemicals with similar properties and overlap could be

²³ EPA made this commitment to the court in *Center for Biological Diversity, et al., v. EPA* (N.D. Cal. Case number CV-11-0293-JCS).

²⁴ Available at: <https://www.epa.gov/system/files/documents/2022-11/esa-workplan-update.pdf>.

²⁵ Section 3 of the plan describes several additional approaches that EPA may consider in the future.

mitigated consistently, and thereby adopt necessary mitigations sooner.

- 3) The Parties anticipate opportunities to establish processes and lessons learned that can result in more efficient 7(a)(2) consultations in addition to those identified in this Joint Statement. These processes and lessons learned should be documented by the Parties as practicable.
- 4) The Parties intend to work together to develop a database of listed species and critical habitat information to provide a common baseline for use in EPA's multi-chemical strategies and BEs and FWS's BiOps (see "Additional Efforts to Support the Stated Goals" below). The Parties are also working collectively on future methods that EPA could employ when making No Effect, Not Likely to Adversely Affect, and Likely to Adversely Affect determinations and plan to work toward an understanding on these methods. Once there is an understanding, EPA intends to provide FWS with effects determinations that use these methods, which are intended to help streamline FWS's review of the determinations, completion of the BiOps, and the consultation process.

Additional Efforts to Support the Stated Goals

EPA has identified additional efforts intended to improve its approaches to furthering the recovery of listed species, including support of the multi-chemical approaches and streamlined section 7(a)(2) consultation (see section 5 of EPA's Plan for more information). The Parties intend to work together on the following efforts as resources allow:

- 1) Species Life History and Critical Habitats Database
 - a. EPA has constructed a database of listed species and critical habitat information that is the basis for making EPA's effects determinations, including predictions of the potential likelihood of future jeopardy and adverse modification. In addition to effects determinations, EPA also identifies the potential for population-level impacts using the multi-chemical strategies for actions where effects determinations have not been completed or consultation with FWS has not been completed. The information in EPA's database includes FWS sources. The purpose of this database is to provide a common set of species and critical habitat information for the Parties to use in section 7(a)(2) consultations, development of multi-chemical approaches, and furthering the conservation of ESA species. As such, FWS will consider this information when assessing the best available scientific and commercial information during consultation. Use of the same database by both Parties is expected to streamline the section 7(a)(2) consultation process. FWS intends to include relevant species baseline information captured in EPA's database in the FWS ECOSphere database.
 - b. EPA intends to maintain this listed species and critical habitat database, updating it periodically with new information or comments provided by FWS or collected

through approach developed and vetted by FWS. The database will be available to FWS staff.

- c. EPA also intends to make the database publicly available in the future. This helps improve transparency in BEs, BiOps, and multi-chemical approaches. This can also help stakeholders can identify species-specific data gaps and opportunities to provide EPA and FWS with data that are impactful to recovery of the species.

2) Geographic Information

- a. Geographic information is an important set of data used to develop effective pesticide exposure reduction measures for the approaches and for section 7(a)(2) consultation. Use of a common set of geographic information between the Parties is expected to facilitate efficient consultations and help identify the most effective measures to reduce exposure to listed species, thus furthering their conservation.
- b. EPA has made the geographic data used to support the approaches and to conduct ESA assessments, including effects determinations, for pesticides publicly available via interactive maps. The maps and underlying data support the Agency's broader efforts to improve protections for listed species and increase transparency in EPA's pesticide review process. The currently available datasets include species range and critical habitat locations as well as EPA's Use Data Layers (which are spatial representations of potential pesticide use sites). These data may be viewed on interactive dashboards or downloaded for use in Geographic Information Systems. EPA may continue to develop additional dashboards to help advance transparency of the data used in its assessments and approaches.
 - i. EPA plans to continue to make these geographic data publicly available.
 - ii. FWS plans to notify EPA when species ranges are updated (e.g., yearly basis) so that EPA can incorporate these updates into its geographic data for use in BEs and in multi-chemical approach development and in the database described above.
- c. Currently, EPA is working to modernize its technology and infrastructure to improve the efficiency of implementing conservation measures to reduce pesticide exposure. These measures are currently implemented through physical pesticide labeling and through the Bulletins Live! Two (BLT)²⁶ system.
 - i. As long as EPA implements measures through the BLT system, EPA will be able to continue to maintain and enhance the BLT system based on available resources so that pesticide users can access relevant mitigations. Bulletins set forth geographically specific pesticide use limitations for the protection of listed species and their critical habitat. EPA expects to use bulletins and BLT to implement some of the mitigations included in the approaches described above.
- d. PULAs

²⁶ <https://www.epa.gov/endangered-species/endangered-species-protection-bulletins>

- i. If EPA identifies geographically specific mitigations to protect listed species from the use of a pesticide (or group of pesticides), EPA may communicate those mitigations and where they apply using BLT. The locations where those mitigations apply are called Pesticide Use Limitations Areas (PULAs). Thus, the purpose of a PULA is to identify areas where pesticide mitigations apply to conserve a listed species and its critical habitat (if designated).
- ii. EPA worked with FWS and other stakeholders to develop a transparent process²⁷ for using best available species information (which is captured in the listed species life history database discussed above) to develop PULAs for listed species and critical habitat. EPA may use PULAs resulting from this process to implement mitigations identified in any final multi-chemical approach or through any section 7(a)(2) consultations.
- iii. The process for PULA development includes the following steps:
 1. EPA or a relevant stakeholder would draft a PULA using the process described by EPA.
 2. EPA would review the draft PULA, including carrying out quality assurance processes. Assuming the developer followed the process and there are no major concerns identified during EPA's review the result of this step is an "interim PULA" that is suitable for use to implement mitigation prior to any applicable section 7(a)(2) consultation.
 3. FWS would provide expert feedback on interim PULAs for species that they deem appropriate, at a minimum, during section 7(a)(2) consultation.

3) Scientific Research

- a. EPA has begun to engage and plans to continue doing so on efforts related to research to support and improve the science of the mitigation practices outlined in the approaches to ensure their connection to furthering species recovery as resources allow. EPA has engaged with the Agency's Office of Research and Development (ORD), the U.S. Department of Agriculture (USDA), subject matter experts at universities, and other stakeholders. As part of these efforts, when appropriate, EPA may consider research that links existing or new conservation measures to the recovery of listed or proposed species. This may include research conducted by EPA, other federal agencies, or stakeholders. If additional data become available in the scientific literature or from government researchers, as resources allow, EPA may consider those data for potential improvements to conservation measures to reflect the pesticide exposure reduction goals included in the multi-chemical approaches. Data gaps that are identified by the Parties to be particularly influential in determining population-

²⁷ A description of the process for developing core maps, which are used to develop PULAs is available online at: <https://www.epa.gov/endangered-species/process-epa-uses-develop-core-maps-pesticide-use-limitation-areas>

level impacts and/or mitigations may be an opportunity for stakeholders, including researchers, to provide important species-specific information that is needed by the Parties for consultation and can be helpful to furthering the recovery of the species. EPA and FWS can consider new information for future development and implementation of multi-chemical approaches and consultations. EPA may use new information to revise mitigations/conservation measures put in place for previous actions (e.g., to revise PULAs already in place).

Roles of Federal, State, and Tribal Agencies and Communication with Stakeholders

Communication with, and education of, interested parties and stakeholders during development and implementation of the multi-chemical approaches to inform pesticide registration and registration review processes is a critical aspect of the success of EPA's Plan (see section 4) in promoting the recovery of listed species to ensure that conservation measures are correctly implemented for the purpose of species recovery. FWS's input is important in these efforts.

- 1) EPA has been and plans to continue to share information with stakeholders and solicit stakeholder feedback during the development of the multi-chemical approaches through various venues. EPA plans to engage its co-regulators, States and Tribes, throughout development and implementation of the approaches. EPA may also coordinate with specific State agencies when applicable to an approach (e.g., Hawai'i), or with State lead agencies when appropriate.
- 2) EPA has developed and plans to continue to develop various communication and education materials to support awareness of and compliance with label requirements, including to conserve listed species. EPA also recognizes that the main sources of information for many growers/pesticide users are the States, crop consultants, extension agents, registrants, and pesticide distributors and that it needs to engage with them to improve grower/pesticide user awareness of labeling requirements to conserve listed species. EPA believes that providing the appropriate support materials, including information on local listed species that are being protected by pesticide labeling requirements, to the professionals that advise pesticide applicators will help improve compliance with pesticide labeling restrictions, including BLT, and thus help decrease pesticide exposures to listed species and designated critical habitats. EPA has created an education and outreach webpage that serves as a repository of educational materials.²⁸
- 3) The Parties may engage one another on joint communications efforts relevant to the efforts described in EPA's Plan.

VIII. Limitations

²⁸ <https://www.epa.gov/endangered-species/pesticides-and-endangered-species-educational-resources-toolbox>

- A. Nothing in this Joint Statement alters the statutory, regulatory, or other authority or responsibilities of either party. This Joint Statement does not supersede existing agreements or restrict any future agreements between FWS and EPA.
- B. This Joint Statement does not create any right or benefit, substantive or procedural, enforceable by law or equity, by persons who are not party to this agreement, against FWS or EPA, their officers or employees or any other person. This Joint Statement does not direct or apply to any person outside of FWS and EPA.
- C. All commitments made by EPA and FWS in this Joint Statement are subject to the availability of appropriated funds and budget priorities. Nothing in this Joint Statement , in and of itself, obligates EPA or FWS to expend appropriations or to enter into any contract, assistance agreement, interagency agreement, or incur other financial obligations. Any transaction involving transfers of funds between the parties to this Joint Statement will be handled in accordance with applicable laws, regulations, and procedures under separate written agreements.

IX. Duration of Joint Statement, Amendments or Termination

- A. This Joint Statement is to take effect upon the signature of the Parties and may be revisited by the Parties as needed.
- B. This Joint Statement may be extended or modified, at any time per the mutual written consent of the parties.
- C. A party may terminate this participation in this Joint Statement at any time by providing written notice to the other party, at least ninety (90) days in advance of the desired termination date.

X. Approval

Edward Messina
Director
Office of Pesticide Programs
US Environmental Protection Agency

Ya-Wei (Jake) Li
Assistant Director
Ecological Services
US Fish and Wildlife Service

Date: _____

Date: _____