

Endangered Species Act (ESA) Mitigations

- ▶ Practical ESA Compliance
Considerations for Crop
Consultants

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Why ESA Matters to Crop Consultants

- ESA compliance is now embedded in pesticide labels
- Consultants influence application decisions
- Documentation and planning are increasingly important

What Changed Under ESA

Pesticide labels now include mandatory ESA mitigation language

County-level and field-specific requirements apply

Compliance is enforceable under federal law

Who Is Responsible?

- Applicators are legally responsible
- Growers share liability
- Consultants play a key advisory role
- Poor guidance can increase enforcement risk



Key ESA Mitigation Categories



Spray drift mitigation



Runoff and erosion
mitigation



Habitat protection
buffers



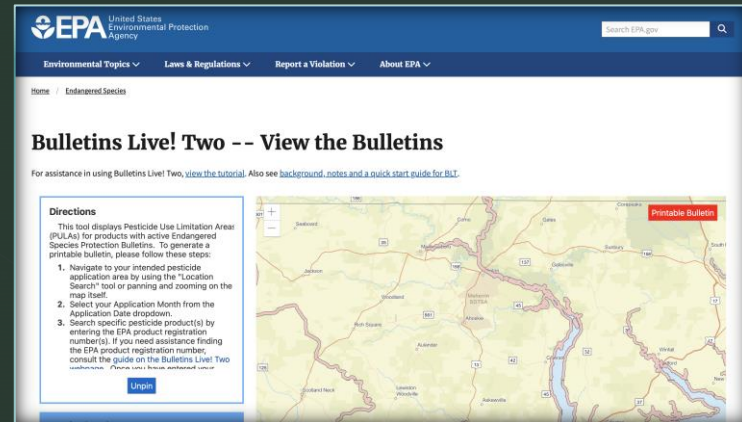
Application timing and
method restrictions

Geographic-Specific Mitigations

- Requirements vary by county and use site
- Bulletins Live! Two provides official guidance
- Must be checked close to application timing

Bulletins Live! Two (BLT)

- EPA's official ESA compliance platform
- Field-specific determinations
- Bulletin must be generated and followed
- Applies at time of application



Spray Drift Mitigations

- Wind speed limits
- Droplet size requirements
- Boom height restrictions
- Downwind buffer zones
- Nozzle selection critical

Runoff & Erosion Mitigations

- Vegetative buffers
- Reduced slope exposure
- Avoid applications before heavy rainfall
- Conservation tillage practices



Protection Buffers



- Managed vs Unmanaged land
 - Managed land maybe counted as spray buffer
 - Unmanaged is not a suitable buffer
- Distance may vary by product

Application Timing Restrictions



Seasonal
cutoffs



Rain-free
periods



Soil moisture
considerations

Product-Specific Requirements

- Each label is unique
- Do not assume consistency across actives
- New products may carry additional restrictions

What Applicators Must Do BEFORE Application

Review	Review label ESA language
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Check	Check Bulletins Live! Two
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Identify	Identify sensitive areas
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Confirm	Confirm mitigation feasibility
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What Applicators Must Do DURING the Season



Re-check bulletins
for each
application



Monitor changing
field conditions



Adjust
recommendations
accordingly

Document Best Practices



Save Bulletin Live! Two outputs



Record application parameters



Keep recommendations in writing



Maintain records for audits

Common ESA Pitfalls

- Assuming past practices still apply
- Ignoring bulletin requirements
- Poor documentation
- Overlooking downwind habitats

Role of Crop Consultants



Translate complex
rules into field
decisions



Reduce legal risk for
growers



Support applicators
with compliance



Serve as trusted
advisors

Looking Ahead

- ESA language will expand to more labels
- Training expectations will increase
- Consultants will play a growing role

Key Takeaways



ESA compliance
is real and
enforceable



Bulletins Live!
Two is essential



Consultants must
be proactive



Good
documentation
protects everyone

Consultant Role in ESA Compliance

- Applicators hold legal responsibility for ESA compliance
- Consultants are not regulators, but influential advisors
- Guide product selection, timing, and placement
- Identify sensitive areas and mitigation feasibility
- Documentation protects consultants and clients
- Help implement conservation mitigations



Real-World Field Scenario

- Cotton field adjacent to ephemeral draw
- Label requires downwind buffer zone
- Consultant considerations:
 - Is mitigation feasible for this field?
 - Alternative product or timing options?
 - Written documentation of recommendation

Documentation: Risk Management Tool

- Save Bulletins Live! Two outputs
- Document recommendations and limitations
- Written records reduce risk during audits or disputes
- Consistency matters more than perfection

Why This Matters to Consultants



Protects growers and applicators



Preserves access to critical crop protection tools



Reinforces consultant professionalism



Strengthens NAICC's voice with regulators

