

Recommendations for Improving ESA Consultation for Pesticide Registration

Three improvements to the consultation process for pesticide registration can preserve the integrity of the ESA and provide reasonable and safe registration of needed pesticides under the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA):

1. EPA and the Services need to establish a collaborative and transparent consultation process for pesticide registration.

- EPA and NMFS have engaged in consultation with little agreement on the methodology for assessing the effects of pesticides on salmon. A third-party mediator is needed to move the consultation process forward. Without cooperative efforts, the Services and EPA cannot meet their obligations under the ESA.
- As part of a cooperative effort, the Services and EPA need to agree on criteria defining “best available data” as well as methods and procedures to evaluate the effects of pesticides on listed species. The agreed upon methods and procedures must complement reasonable timelines and available resources.

2. The process for pesticide registration and ESA consultation needs to be more transparent and accessible to support opportunities for state and stakeholder participation.

Two existing mechanisms would facilitate public participation in the consultation process for pesticide registration if better utilized:

- State Initiated Plan provision of EPA's Endangered Species Protection Program allows states to collect high-quality data for use in EPA risk assessments that are ultimately forwarded to the Services as “consultation packages.”
- EPA can better utilize the public docket to increase transparency for stakeholders and governmental partners on regulatory issues and support opportunities to submit relevant data for the registration and registration review process.

3. EPA and the Services need to revisit the initial biological opinions to update available environmental data and assess the economic impacts of the proposed RPAs and RPMs.

- Data collected since consultation was initiated in 2002 should be assessed as well as implementation of a more transparent process that assures adequate public comment on the development of RPAs designed to protect listed species.
- As part of all biological opinions the Services need to establish quantifiable “targets” to define what constitutes risk or endangerment. The absence of quantifiable targets prevents the effective evaluation of proposed RPAs and assessment of the economic impacts of compliance.
- A full analysis of the economic impacts of the RPAs and RPMs on agriculture must be included in the completed biological opinion(s).
- If significant changes to pesticide use are necessary reasonable timelines for implementation need to be specified.