



Bring Clarity to the FIFRA/ESA Intersection, Fix the Broken Pesticide Consultation Process

The Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) designates the U.S. Environmental Protection Agency (EPA) as the primary regulator of pesticides. When evaluating pesticides through registration or registration review EPA conducts comprehensive human health and ecological risk assessments. The reviews by the EPA exhaust immense resources and use scientific data generated to address concerns pertaining to the identity, composition, potential adverse effects, and environmental fate of each pesticide, whether the pesticide is organic or conventional. Pesticides approved by EPA pursuant to FIFRA cannot cause any unreasonable adverse effects on the environment, taking into account the economic, social and environmental costs and benefits of the use of any pesticide. During the extensive review of pesticides EPA implements the Endangered Species Protection Program (ESPP), which provides an additional review for those species listed as endangered and threatened.

The Endangered Species Act of 1973 (ESA) provides for the conservation of species that are endangered or threatened and the conservation of the critical habitat on which they depend. ESA's intent to protect and preserve species and their habitats is vital and necessary to conserve American ecosystems and our tremendous natural resources.

The U.S. Fish and Wildlife Services, and the National Marine Fisheries Services (collectively the services) are tasked with implementing ESA. Under Section 7 of ESA, Federal agencies must consult with the Services when any action the agency carries out, funds, or authorizes *may affect* a listed endangered or threatened species.

When a pesticide is undergoing a new registration or registration-review a consultation between EPA and the Services is triggered if it appears that the pesticide may affect a listed species, which results in both the EPA and the Services conducting parallel scientific assessments with different standards and expertise. If the Services determine that the agency action places a threatened or endangered species in jeopardy, the Services will see this as a potential violation of the ESA and will require mitigation measures to move forward.

Unfortunately, EPA and the Services have never been able to agree how these consultations should be conducted, resulting in wasteful duplication of complicated study reviews, inefficient use of federal and private resources, and delays getting new, beneficial products to market, with no additional benefit to species and endless litigation. One of the greatest challenges impacting the structural pest management industry's ability to protect public health is the dysfunctional intersection of FIFRA and ESA.

Since 2004 numerous citizen law suits have been brought by activists against the Services and EPA. The litigation against the Services and EPA asserts a failure to adequately perform consultation and has led to settlements and court orders that restrict the use of pesticides while creating unrealistic timelines to perform consultations in a piecemeal process. Neither the Services nor the EPA will be able to conduct full consultation as currently constituted.

As the agency charged by Congress with regulating the human health and environmental safety of pesticides, EPA has decades of issue area expertise with these products and their impacts on the environment, including their potential toxicity and exposure to wildlife. That experience should be supplemented with the species expertise of the Services, but EPA's work should be neither ignored nor duplicated. Potential threats to protected species and their habitat can be better assessed and more effectively regulated to encourage a more efficient, timely process, providing enhanced species review, along with greater regulatory certainty for pesticide applicators.

Position:

Pest Management Professionals are protectors of public health and stewards of the environment. Now is the time to fix the broken pesticide consultation process between EPA and the Services to better protect people their business and their homes; while better allocating our government resources to preserve our nation's precious natural resources of diverse species and ecosystems.