Salmon Protection and Chemical Regulations

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- Salmon as a cultural and political icon
- Wild salmon
- Habitat suitability and access
- Cycles of relative abundance poorly understood
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- **Litigation-driven ESA consultation**
  - 2002 EPA sued by WA Toxics Coalition et al., for failure to consult on pesticide registration of 54 (37) pesticides that may effect salmon.
    - 2005: Interim buffers established by court order (60 feet by ground; 300 feet by air)
  - 2008 National Marine Fisheries Service sued by environmental organizations for failure to complete consultation. A settlement agreement was reached to complete biological opinions by 2012.
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• NMFS has completed three biological opinions
  - Chlorpyrifos, Diazinon and Malathion (November 2008)
  - Carbaryl, Carbofuran and Methomyl (April 2009)
  - 12 organophosphate pesticides (August 2010)
• In April 2009, Dow, Cheminova and MANA filed suit against NMFS challenging the November 2008 biological opinion
  - In April 2010 the above registrants were notified by EPA to make label changes under the BiOp (they declined).
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**Required Label Restrictions Can Include:**

- Wind speed restrictions - 10 mph
- Label changes regarding rates, number of applications, use methods or use sites
- Report fish kills
- Storm event - runoff
- Require surface water monitoring
- Buffers around surface water
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• Use limitations will be applicable to all freshwater, estuarine and near-shore marine habitats

• Freshwater habitats include flowing water and water that may only be temporarily connected to flowing water including intermittent streams, off-channel habitats, drainages, ditches and other man-made conveyances that lack salmonid exclusion devices
Buffer Impacts in Arid Fruit Growing Areas of the Pacific Northwest

Wenatchee River Valley (near Peshastin)

- Total Acres of Agriculture in Wenatchee (WRIA 45): 9,104
- Agricultural production affected by 100 ft buffer: 917, 10%
- Agricultural production affected by 500 ft buffer: 5,026, 55%
- Agricultural production affected by 1000 ft buffer: 7,712, 85%

Yakima River Valley (South of the City of Yakima)

- Legend

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Most industry reviewers have concerns:

- What bodies of water must be “protected”?
- What labels/use data are being used?
- Tank mixes?
- Water sampling data not used.
- County bulletins—Whose job?
- Who really are the stakeholders?
- Inability to provide on-the ground use data or get questions answered.
The Endangered Species Act and the Impacts to Pesticide Registration and Use

Recommendations for Improving ESA Consultation for Pesticide Registration

http://agr.wa.gov/

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Recommendations

- EPA and the Services need to establish a collaborative and transparent consultation process for pesticide registration.
- The process needs to support opportunities for state and stakeholder participation.
- EPA and the Services need to revisit the initial biological opinions to update available environmental data and assess the economic impacts of the proposed risk assessments.

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- **BiOp response process: Current and future initiatives**
  - Environmental group and registrant lawsuits continue and are multiplying
  - County bulletin petitions (registrants)
  - Section 1010 petition (Growers for ESA Transparency)
  - CropLife America petitions
  - NASDA resolution
  - Minor Crop Farmer Alliance and NMFS Workshops.
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