Endangered Species Protection

Presentation on Current Program Status for the Pesticide Program Dialogue Committee
November 9, 2006
ESA Section 7(a)(2)

- Applies to all federal agencies
  - Insure their actions are not likely to jeopardize the continued existence of any endangered or threatened species or result in the adverse modification of designated critical habitat
EPA response to Congressional Intent

Congress indicated EPA must comply with the ESA in the context of FIFRA while minimizing the impact on pesticide users.

Characteristics of EPA’s assessments and use limitations:
- Best available data and science
- Spatially explicit
- Temporally explicit
Overall Implementation Approach

- Address listed species issues in the course of standard regulatory decisions under FIFRA
  - Registration
  - Reregistration
  - Registration Review
Long Term Approach

- 100 new Ais/uses
- 75 Rereg’s
- 75 Rereg’s
- 25 Reg Rev
- 100 new Ais/uses
- 80 Reg Rev
- 100 new Ais/uses
- 80 Reg Rev
- 100 new Ais/uses
- 80 Reg Rev
- 100 new Ais/uses
- 80 Reg Rev
- 100 new Ais/uses
- 40 Reg Rev

Registration

Reregistration

Registration Review


Species Specific - unusual circumstances process
Overview Document

- Discussed at 3/2/04 risk assessment process, and 10/20/04 metolachlor case study public meetings

- Assessments consistent with Overview Document result in determinations consistent with those that would be made by the Services

- Outlines methodology for 2 levels of assessment
  - Baseline assessment
  - Species specific assessment
Baseline assessment

- Identifies taxa of concern based on
  - Toxicity
  - Fate
  - Conservative estimates of environmental concentration
  - Coarse spatial analysis
Species specific assessments

- Builds from baseline assessment
- Identifies individual species of concern based on:
  - Toxicity
  - Fate
  - Refined estimates of environmental concentration
  - Refined spatial and temporal analysis
Assessment enhancements: baseline and species specific assessments

- Assess both direct and indirect effects

- Use best available data
  - Laboratory and field data supporting registration
  - Scientific literature - ECOTOX
    - On-line literature
    - Information not yet on-line
    - Explanation of rejection of literature
Assessment enhancements: species specific assessments

- Action area - includes areas where indirect effects could occur
- Critical habitat - effects to principle constituent elements in addition to species effects
- Uncertainties – more robust explanation
Application of Overview Document

- Baseline risk assessments to support registration and reregistration

- Informal consultation for purposes of technical assistance
  - Aldicarb
  - Carbofuran
  - Nine active ingredients used in rodenticides

- Litigation driven assessments
Litigation driven assessments

- Atrazine relative to 21 species
- Atrazine, metolachlor, simazine, carbaryl, diazinon, prometon relative to Barton springs salamander
- 66 pesticides relative to the California red-legged frog
- In consultation on assessments relative to Pacific northwest salmonids
Other enhancements

- Geospatial data warehouse
- Data extraction tools – model ready format
- Automated watershed delineation
- Endangered species information repository
- Internal tracking systems
Counterpart regulations

- Services regulations
  - Optional alternative consultation processes
  - Use dependent upon:
    - Effect determinations being made by a risk assessor trained and certified by the Services
    - Risk assessments being conducted consistent with EPA Overview Document
  - Challenged and appealed
Consultation

Under Counterpart Service Regulations:

- "no effect" - consultation is not required
- "not likely to adversely affect" - informal consultation
  (50 CFR part 402, subpart D - no further consultation needed)
- "likely to adversely affect" - formal consultation
- Section 18s viewed as any other agency "action" emergency for purposes of consultation under ESA sometimes
Field implementation

- Discussed at 2/22/06 public workshop

Field implementation is the process of effecting any needed changes to pesticide use, among pesticide users.
Effecting change

- Once the need for a limitation is determined
  - Education
  - Creation
  - Execution
  - Enforcement
Education and training

- Regulatory partners workshop 11/15/06
  - Educational and outreach materials
  - Section 18 guidance
  - Bulletin system
  - Enforcement
- Regions, states, tribes and extension coordinators continue educating user community
- OPP open to other opportunities to continue education process
Creation of Bulletins

- Standard entry screens
- Minimize errors
- Real time updates
Creation of Bulletins

- Bulletins employ crisp cartography, graphics and text
- States review for clarity
Execution of Bulletins

- Label statement referring user to Bulletin

*Web site access:* [www.epa.gov/espp](http://www.epa.gov/espp)

*Toll-free telephone access:*

*On-line tutorial*
Enforcement

- Misuse provisions of FIFRA

- Access for state and tribal regulatory officials enforcing FIFRA to valid Bulletins
  - Password protected access
  - Historical bulletin retrieval
What does success look like?

- Come into full compliance while making timely regulatory decisions
- Work with stakeholders and regulatory partners to ensure use of best available data for characterizing potential risks to listed species
- Minimize scope of limitations while providing protection to listed species
- Make effective transition to bulletins within user community