



# United States Department of the Interior

FISH AND WILDLIFE SERVICE  
Washington, D.C. 20240



In Reply Refer To:  
FWS/AES/DCHRS/039744

JAN 14 2009

Arthur-Jean B. Williams, Associate Director  
Environmental Fate and Effects Division  
Office of Pesticide Programs (7507P)  
U.S. Environmental Protection Agency  
Washington, DC 20460

RE: Request for Initiation of Formal Consultation on the Effects of Reregistration  
of pesticides

Dear Ms. Williams:

This letter acknowledges the U.S. Fish and Wildlife Service's (Service) receipt of your letters requesting initiation of formal section 7 consultation under the Endangered Species Act of 1973, as amended (ESA)(see attachment). These consultations concern the possible effects of the Environmental Protection Agency's (EPA) reregistration of pesticides on federally threatened and endangered species and their critical habitats.

The Service has not received all of the information necessary to initiate formal consultation on the reregistration of these pesticides as outlined in the regulations governing interagency consultation (50 CFR §402.14). To complete the initiation packages, additional information, described below, will be required for each consultation request. For a more detailed discussion on the missing information, please refer to our February 11, 2008, letter responding to your consultation request on the effects of atrazine on the Alabama sturgeon (*Scaphirhynchus suttkusi*) and dwarf wedgemussel (*Alasmidonta heterodon*).

1. A full description of the action to be considered. During our interagency meetings of December 10-12, we recall reaching a consensus that the proposed action included EPA's reregistration of pesticide products and approval of labels. To fulfill this requirement, we request that EPA submit a list of all current product registrations for which consultation is being requested (including associated labels defining product uses where available), the ingredients contained therein, the other ingredients in recommended tank mixtures, and any known toxicity data for these chemicals for consultation requests received both prior and subsequent to these meetings.

2. A complete description of the manner in which the action may affect the listed species and their critical habitats, including an exposure analysis that represents reasonable worst



case scenarios for both the entire action area and for individual portions of the action area relevant to the listed species and designated critical habitats under consultation. In informal consultation, we determine whether listed species or critical habitats are likely to be adversely affected and would base the determination upon the most extreme exposure concentration that could occur to any individuals or critical habitats in the action area. This enables the Service to assist the action agency in complying with not only section 7 of the ESA, but also the section 9 prohibitions on "take." This extreme exposure estimate typically would not be expected to occur uniformly across the range of a listed species or its critical habitat because, for example, the percentage of watersheds dedicated to cropland will vary. For a formal consultation, a reasonable worst-case analysis would characterize the extreme range of exposures likely to occur to the various populations of the listed species or units of critical habitat, or portions thereof. This latter analysis would allow us to characterize the proportion of the species range or critical habitat exposed to the highest concentrations of pesticides, and the proportion exposed to more moderate concentrations.

3. An estimate of existing and future pollutant loads in the action area as a basis for determining whether listed species are likely to be adversely affected by the addition of the pesticide products and, if so, an analysis of the extent of effects over the reregistration period. The Service and NOAA are developing methods for weighing the influence and effects of "environmental mixtures." EPA may choose to await development of these approaches, or adopt their own methods for considering existing environmental conditions that influence the manner in which the action may affect listed species or critical habitat.

We will be unable to fully evaluate the effects of this action or formulate a biological opinion until we receive all of this information.

While EPA is preparing this information, the Service will continue to engage in informal consultation with you on these and other reregistration actions. At our interagency meetings of December 10-12, 2007, our agencies committed to working together in the development of methodologies to fulfill EPA's section 7 requirements for pesticide registration activities. We believe a more collaborative, team-oriented approach would benefit EPA in submitting consultation requests that include all of the information necessary to complete section 7 consultations. Specifically, we agreed work jointly to:

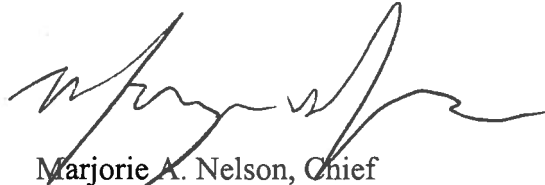
- modify existing modeling to ensure estimated environmental concentrations (EECs) represent worst-case scenario concentrations as a basis for making effects determinations;
- modify existing modeling to ensure EECs are adequately predicted in low-flow and off-channel habitats;
- develop methodology to account for future changes in use of pesticides (at least 15 years) in urban and residential settings;
- identify and develop exposure estimates required for an effects analysis for formal consultation;

- develop an approach for modeling EECs on a nationwide scale for Section 3 Registration Review ;
- develop a methodology to adequately account for exposure to additional chemical ingredients in formulated products and environmental mixtures; and,
- develop a methodology to incorporate information on sublethal effects in making Not Likely to Adversely Affect/Likely to Adversely Affect determination.

Finally, we note that the volume and complexity of EPA's section 7 consultation requests on pesticide reregistrations exceed our capability to complete consultations within normal statutory timelines. We would be happy to continue to discuss with EPA ways in which to best utilize our joint resources to address EPA's consultation workload, including establishing priorities and realistic timelines given the Service's limited staff resources.

We look forward to meeting with your staff to jointly pursue solutions to these complex issues that will meet the standards of the Endangered Species Act. If you have any questions or concerns about this consultation or the consultation process in general, please feel free to contact Nancy Golden (703-358-2148; [Nancy\\_Golden@fws.gov](mailto:Nancy_Golden@fws.gov)) or Dan Buford (703-358-2106; [Daniel\\_Buford@fws.gov](mailto:Daniel_Buford@fws.gov)) of my staff.

Sincerely,



Marjorie A. Nelson, Chief  
Branch of Consultation & HCPs  
Division of Consultation, Habitat  
Conservation Planning, Recovery and  
State Grants

Enclosure

Enclosure 1. Consultation requests received from EPA for pesticide registration activities:

Date request received	Action
March 14, 2007	Approval of products containing the active ingredient atrazine, and effects on seven federally listed endangered freshwater mussels: Pink Mucket Pearly ( <i>Lampsilis abrupta</i> ) Rough Pigtoe ( <i>Pleurobema plenum</i> ) Shiny Pigtoe Pearly ( <i>Fusconaia edgariana</i> ) Fine-rayed Pigtoe ( <i>Fusconaia cuneolus</i> ) Heavy Pigtoe ( <i>Pleurobema taitianum</i> ) Ovate Clubshell ( <i>Pleurobema perovatum</i> ) Southern Clubshell ( <i>Pleurobema decisum</i> )
July 22, 2007	Approval of products containing the active ingredients acephate, aldicarb, azinphos methyl, chloropicrin, diazinon, imazapyr, metam sodium, methamidiphos, methomyl, metolachlor and effects on the red-legged frog ( <i>Rana aurora draytonii</i> )
September 17, 2007	Approval of products containing the active ingredient atrazine, and effects on the pallid sturgeon ( <i>Scaphirhynchus albus</i> )
September 17, 2007	Approval of products containing the active ingredient atrazine, and effects on the Topeka shiner ( <i>Notropis topeka</i> )
September 17, 2007	Approval of products containing the active ingredient atrazine, and effects on the fat pocketbook pearlymussel ( <i>Potamilus capax</i> ), northern riffleshell ( <i>Epioblasma torulosa rangiana</i> ), and purple cat's paw pearlymussel ( <i>Epioblasma obliquata obliquata</i> )
September 21, 2007	Approval of products containing the active ingredient prometon, and effects on the Barton Springs Salamander ( <i>Eurycea sosorum</i> )
September 21, 2007	Approval of products containing the active ingredient carbaryl, and effects on the Barton Springs salamander ( <i>Eurycea sosorum</i> )
October 22, 2007	Approval of products containing the active ingredients simazine, oxydemeton methyl, mancozeb, maneb, chlorothalonil, bromacil, bensulide, carbaryl, malathion, captan and effects on the red-legged frog ( <i>Rana aurora draytonii</i> )
Febraury 20, 2008	Approval of products containing the active ingredients methyl parathion, propyzamide, naled, S-methoprene, dimethoate, esfenvalerate, hexazinone and effects on the red-legged frog ( <i>Rana aurora draytonii</i> )

June 20, 2008	Approval of products containing the active ingredients EPTC, disulfoton, linuron, telone, phosmet, propargite and Oryzalin and effects on the red-legged frog ( <i>Rana aurora draytonii</i> )
October 20, 2008	Approval of products containing the active ingredients glyphosate, oxyfluorfen, permethrin, phorate, rotenone, tribufos, ziram, and effects on the red-legged frog ( <i>Rana aurora draytonii</i> )