



# CBD Pressing For ESA Consultation During Expedited EPA Pesticide Reviews

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The Center for Biological Diversity (CBD) is preparing to urge EPA to conduct thorough Endangered Species Act (ESA) consultations even as the agency plans to accelerate registration reviews of controversial neonicotinoid pesticides -- as environmentalists have advocated -- as part of the Obama administration's strategy for addressing pollinator declines.

The administration's strategy, released May 19, outlines several actions to protect pollinators, including improving their habitat, assessing stresses to bees from pesticides and other factors blamed for bee declines, and acting where appropriate.

Among other things, the strategy says EPA has "further expedited" its Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) registration review of neonicotinoid pesticides. Although environmental groups have long sought expedited reviews, arguing sufficient scientific evidence already exists to justify banning neonicotinoids, a source with CBD says those reviews should include consultation with federal wildlife officials on risks to listed species.

"How can you accelerate the final decision if you don't consult" with federal wildlife officials, as required by ESA? the source says.

"Are you going to throw out a decision that isn't going to comply with the ESA?"

The source contends accelerated registration reviews that still contain adequate protections for listed species may be possible, though EPA staff have not answered the group's questions on whether the neonicotinoid reviews will include ESA consultations. CBD intends to call for consultations on potential risks to listed species in future comments to the agency, the source says.

But EPA, in an email response to a question from InsideEPA, says that given the expedited reviews, the agency will be unable to assess potential risks to all endangered species. The agency says its ecological assessment for neonicotinoids will weigh risks to bees, aquatic species and other non-target organisms, and that the agency will consider ESA reviews for neonicotinoids after completing consultation on five substances, that are serving as pilots for a new federal process for assessing risks to listed species.

"After we complete the first five pilot ESA assessments (e.g., chlorpyrifos, diazinon, malathion, carbaryl, and methomyl), we will make a determination as to how quickly we can complete ESA assessments for the neonics," according to the EPA email.

While several environmental groups in recent months have pressed EPA to restrict neonicotinoids to protect bees, advocates, including CBD, have also been pushing EPA to more broadly apply the new federal process for assessing risks from pesticides to endangered species.

Section 7 of the ESA requires federal agencies to consult with the U.S. Fish and Wildlife Service and/or the National Marine Fisheries Service, collectively known as the services, before taking action that could harm listed species. But federal officials have long failed to complete the consultations, in part because of differences in statutory requirements of FIFRA and the ESA.

In November 2013, EPA and the services announced new “interim approaches” for assessing risks to listed species, but noting limited resources and a still-evolving process, said they would implement the new process primarily through registration review of existing chemicals, which they argue generally pose greater risks than new alternatives.

EPA and the services are piloting the first national consultations on five organophosphate pesticides selected through a legal settlement with environmental groups, including CBD. But federal officials said last year they are also working to streamline the new process to allow evaluations of multiple substances at a time (Risk Policy Report, Nov. 18).

Environmentalists have pushed federal officials to improve efficiency by adapting the interim approaches to assess multiple chemicals at a time, perhaps by conducting

reviews by class of pesticides, noting that chemicals within certain groups, like organophosphates or neonicotinoids, would likely have similarities in the analysis.

The CBD source tells InsideEPA that in recent public meetings, federal officials have shown substantial progress in developing tools to support the interim approaches, such as maps showing locations of listed species, so that more efficient reviews should soon be possible.

After the release of the new federal pollinator strategy, EPA updated its website to show it will complete registration review of four common neonicotinoids by 2016 or 2017, a year or two earlier than previously scheduled for certain chemicals in the class. EPA will release initial risk assessments supporting the reviews for public comment in 2015 or 2016.

Also as part of the strategy, EPA has proposed new label language prohibiting foliar applications, during bloom, of acutely toxic pesticides at sites where honey bees are under contract for pollination. EPA is taking comment on the proposal through June 29.

The accelerated reviews and spraying restrictions come after environmental groups have argued in letters to federal officials, including Obama, that there is sufficient scientific to support greater restrictions or a ban on neonicotinoids, which advocates say pose a persistent risk to bees because they are systemic, meaning the poison is taken up into plants’ pollen and nectar.

To support their arguments, advocates have cited numerous studies, including a June 2014 analysis of more than 800 peer reviewed studies that found systemic pesticides pose risks to pollinators and other non-target species at very low doses and that risks of neonicotinoids have been “systematically underestimated.”

During a May 13 meeting with EPA staff, environmentalists argued the agency has relied too heavily on industry-sponsored studies and discounted other peer reviewed studies showing neonicotinoids pose persistent risks to bees through their systemic properties, according to a source familiar with the meeting.

As a result of the meeting, the source says, advocacy groups will submit studies to EPA in advance of the June 29 comment deadline, that show evidence to support restrictions of other applications of neonicotinoids such as on treated seeds because of the threat they pose to bees.

While the CBD source says EPA’s neonicotinoid reviews should include interagency consultation on the pesticides’ potential risks to listed species, the source with another environmental group said EPA’s registration reviews of neonicotinoids should be thorough, though swift action is also needed to protect bees.

“We want to make sure the reviews are robust and take into account all of the available independent studies,” the source says. As for whether the reviews of neonicotinoids should include ESA consultations, the source was undecided, saying, “It’s something that should definitely be considered.”

Meanwhile, EPA pesticides officials told a June 1 meeting of the State FIFRA Issues Research and Evaluation Group (SFIREG) that the agency has begun streamlining its pesticide registration review process by grouping chemicals for review in cases where they have similar toxicity profiles or risk concerns.

EPA has begun taking such an approach in risk assessments supporting the registration review of sulfonylureas (SU), used in herbicides, and the pyrethroid class of insecticides. For SU chemicals, the agency will craft a single ecological risk assessment document for 21 SU chemicals, staff said. And agency officials are classifying pyrethroid insecticides for risk assessment by use pattern, such as outdoor residential or agricultural uses. But agency officials noted that the ecological risk assessment for the 21 SU chemicals is not a cumulative assessment.

While saying listed species and pollinators would received additional consideration during registration review, officials did not address whether certain classes of chemicals would undergo interagency consultation.

“This is a way for us to organize in a way that makes it easier for us, and gives us a more efficient way to engage stakeholders so we’re not doing it one by one,” Rick Keigwin, director of the Pesticide Re-evaluation Division told SFIREG. “I think it’s a more holistic approach.” -- Dave Reynolds