



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration

National Marine Fisheries Service

P.O. Box 21668

Juneau, Alaska 99802-1668

January 13, 2003

Kimberly Stryker
Division of Environmental Health
555 Cordova Street
Anchorage, AK 99501

ATTN: PESTICIDES AND FORESTRY

Dear Ms. Stryker:

The National Marine Fisheries Service (NMFS) has reviewed the proposal to amend the State of Alaska pesticide regulations administered by the Department of Environmental Conservation (DEC) for certain forestry projects. The regulation amendments are being proposed in response to legal review of state law regarding the issuance of a pesticide permit to conduct aerial spraying of an herbicide for a reforestation project.

To develop the proposed regulation amendments, DEC reviewed comments on other pesticide permit applications, standard permit stipulations, and previous consultation with the State Department of Natural Resources, Alaska Department of Fish and Game, and Board of Forestry. Changes are being proposed to alter the buffer requirements and add applicant requirements to provide information that the pesticide chosen is the least toxic, and that non-chemical means of pest control are infeasible. Applicants are to be encouraged by DEC to choose a pesticide that is not persistent in the environment, has low solubility, degrades rapidly (has a short half-life), has low volatility, and will not leach to groundwater or runoff to surface water (is not mobile).

NMFS is compelled under the Magnuson-Stevens Fishery Conservation and Management Act (MSFCMA) essential fish habitat (EFH) provisions to provide the state with EFH Conservation Recommendations when an action proposed by a state agency would adversely affect EFH. Recent information regarding the effects of certain pesticides has come to our attention that leads us to conclude that the registration and permitting of certain pesticides by the state would adversely affect EFH for all five species of Pacific salmon.



The adverse effects of pesticides to salmonids are detailed in the enclosed publications "Diminishing Returns: Salmon Decline and Pesticides" by Richard D. Ewing (1999), and "Poisoned Waters: Pesticide Contamination of Waters and Solutions to Protect Pacific Salmon" by Pollyana Lind (2002). Lind (2002) summarizes EPA findings from its pesticide registration documents which reveal that 35 commonly used and/or frequently detected pesticides are expected to have a negative impact on aquatic species, their habitat or their food sources. Ewing (1999) discusses the direct and indirect adverse effects of pesticides to salmon. The scientific basis for concern regarding the effects of pesticides to salmonids has been upheld legally by a July 2002, ruling of the United States District Court, Western District of Washington, in Seattle. The court found that 55 identified pesticide active ingredients were scientifically demonstrated as having a causal link to direct or indirect adverse effects on salmonid populations (see pages 13 and 14 of enclosed Washington Toxics Coalition v. EPA and American Crop Protection Association Order).

While the proposed changes to the pesticide regulations are well-meaning, they fall short of proactive protection of the salmonid resource in Alaska. The proposed regulations encourage rather than require the use of pesticides that will safeguard against contamination of the fishery resource. The use of buffers is supported by NMFS, but the effectiveness of such buffers in protecting waters from pesticide contamination is unknown. Absent additional information regarding the contamination levels of Alaskan waters, NMFS encourages the state to take a conservative approach to preventing the harmful pesticide contamination of waters and salmonids that is now being observed in the Pacific Northwest states.

The state pesticide registration requirements allow DEC to refuse a pesticide registration in Alaska based on a number of factors including "the threat to human health, safety, and welfare, animals, and the environment that might result from distribution, sale or use of the pesticide." NMFS offers the following recommendations pursuant to Section 305(b)(4)(A) of the MSFCMA.

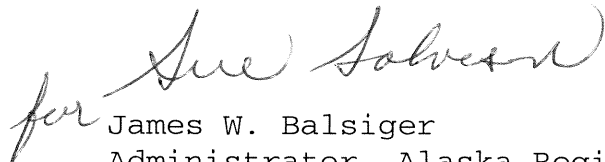
- 1) DEC should refuse/rescind registration of the 55 pesticides listed in the Washington Toxics Coalition v. EPA court case that are known to cause adverse effects to salmon and their habitats.

2) DEC should establish a comprehensive pesticide tracking system of what pesticides are used where, when and in what amounts in the state.

3) DEC should establish instream water quality monitoring programs for pesticide constituents in salmon habitats near areas of pesticide application (see enclosed publications for additional details).

Thank you for the opportunity to comment. If you have any questions, please contact Linda Shaw at (907) 586-7510.

Sincerely,

for 
James W. Balsiger
Administrator, Alaska Region

cc: ADEC, AADGC, ADF&G, ADNR, USFWS, Juneau

Enclosures:

U.S. District Court Case No. C01-132C, Washington Toxics Coalition v. EPA and American Crop Protection Assoc., Order, July 2, 2002

"Poisoned Waters: Pesticide Contamination of Waters and Solutions to Protect Pacific Salmon" by Pollyanna Lind (2002)

"Diminishing Returns: Salmon Decline and Pesticides" by Richard D. Ewing (1999)