

17 May 2001

Public Information and Records Integrity Branch  
Information Resources and Services Division (7502C)  
Office of Pesticide Programs  
U.S. Environmental Protection Agency  
Ariel Rios Building  
1200 Pennsylvania Ave., NW  
Washington, D.C. 20460

SUBJECT: Docket for Comments on Proposed Consent Decree and Settlement Agreement - FQPA Implementation

In response to the subject notice electronically published on April 27, 2001 on the U.S. Environmental Protection Agency's Office of Pesticide Programs internet web page, the American Phytopathological Society (APS) would like to comment on the proposed Consent Decree and Settlement to aid the Court in evaluating the reasonableness of the proposed agreement.

APS, founded in 1909, is the premier educational, professional and scientific society dedicated to the promotion of plant health and plant disease control for the common good. The Society represents more than 5,000 plant pathologists, including scientists and science administrators in academic, industrial and government institutions working in a variety of areas, including applied and environmental plant pathology, food, horticultural and forestry science, and biotechnology, including basic and applied research on producing transgenic plants resistant to pathogens and abiotic stresses.

While our Society supports the intent of the Food Quality Protection Act (FQPA), including increased protections for children, we also maintain that sound science and methodology be used in its implementation. The Consent Decree sets deadlines before the already statutorily established deadlines for key scientific data submission in many cases, thereby forcing EPA to make unnecessary default assumptions in product risk assessments. This could result in the arbitrary cancellation of products with no documented environmental or health concerns, and unnecessarily reduce the number of pest control tools available to protect production of our food and to manage pests in other plant production industries. The Consent Decree would force premature restrictions on products without sufficient alternatives being available.

This could have a devastating impact on our food supply, especially minor and specialty crops. The available alternatives may prove inadequate in controlling pests, and managing resistance development. Forcing the EPA to make hasty decisions, in the absence of scientific evidence, will unnecessarily jeopardize safe products and result in a negative and unfounded perception of crop protection products used to produce the safest, highest quality and most abundant food supply in the world.

The Consent Decree would also preempt the EPA's process for developing a Cumulative Risk Assessment model, an area of science still in development, where further study and research is required, thereby leaving the scientific community grossly inadequate time to develop methodology based in sound science. Furthermore the proposed consent decree does not appropriately address the science issues that still must be resolved prior to making tolerance reassessment decisions, reregistration eligibility decisions (REDs) and very importantly decisions on whether groups of compounds act by a common mechanism. At least four critical guidance papers on FQPA Science policy issues have yet to be resolved, revised and finalized. These include the Agency's policy on use of the additional 10X

uncertainty factor; guidance for performing aggregate exposure and risk assessments; a framework for assessing non-occupational/non-dietary (residential) exposure to pesticides; and cumulative risk assessment guidance.

The APS is concerned that the Consent Decree as written will set artificial deadlines forcing EPA to make decisions not founded in sound science. We encourage the Agency to use nothing less than the best scientific data and methodology when evaluating these crop protection products, many of which have been used safely and effectively for years to protect our food supply.

Our Society appreciates the opportunity to provide comments in response to the Consent Decree decision and trust that these comments and recommendations provide assistance in determining reasonableness of the proposed agreement.

Sincerely

A handwritten signature in black ink, appearing to read "S.A. Slack". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

Steven A. Slack  
President  
American Phytopathological Society