

NEW PESTICIDE RESTRICTIONS TO PROTECT ENDANGERED SPECIES

By Chuck Woods

GAINESVILLE — In one of the most far reaching and controversial attempts to protect endangered plant and animal species, the Federal Environmental Protection Agency is proposing major changes in how and where pesticides can be used.

The changes, to become effective in February, 1988, could virtually eliminate the use of many chemicals in areas where they could harm animals and plants protected by the Endangered Species Act of 1984.

At least 60 of Florida's 67 counties will be affected, including many of the state's important farming areas. They are home to one or more endangered species which would trigger restrictions on the use of many pesticides in all or parts of those counties, explains Dr. Norman Nesheim, pesticide information coordinator with the University of Florida's Institute of Food and Agricultural Sciences (IFAS).

Across the nation, about half of all the counties will be affected in some way by the proposed new rules, he adds.

"Everything from mosquito control to growing citrus and vegetables in Florida will be affected by the new pesti-

cide rules. About the only thing not covered is pesticide use in the home and garden," Nesheim says.

EPA says the new restrictions should not have an adverse effect on agriculture because most endangered plants or animals and their habitats are not located in cultivated fields. But agricultural interests, who say they've always been concerned about the proper use of pesticides, are now voicing strong opposition to the new pesticide rules.

"The U.S. Department of Agriculture, the California Department of Food and Agriculture and the American Farm Bureau Federation have asked EPA to re-evaluate and delay the new rules to allow for more public comment. It's not certain at this time what impact these protests will have on the eventual outcome of the rules," Nesheim explains.

To comply with the provisions of the act, EPA is requiring manufacturers to revise pesticide container labels, listing states and counties where endangered plants and animals must be protected from the use of certain pesticides.

"Before applying any pesticide, farmers and others would have to consult the pesticide label to determine if their county is listed as having pesticide use restrictions to protect endangered species. If their county is identified on the label, they would have to obtain a map prepared by EPA and the U.S. Fish and Wildlife Service to determine precisely where restrictions may apply to use on their property," Nesheim explains.

The IFAS specialist says the new pesticide restrictions will place another burden on anyone who needs an effective chemical to control pests. "It's possible, for example, that a farmer on one side of the road could use a pesticide while someone across the street who grows the same crop would be restricted from using the same pesticide," he adds.

Nesheim says the new EPA rules to protect endangered species could eliminate the use of almost all pesticides in some parts of the country, leaving farmers and others with no alternative pest control methods.

"In forest uses, for example, many pesticides would be restricted in Florida, particularly in Clay, Gadsden, Orange, and Polk counties. Pesticides used to control mosquitoes in an aquatic environment would be heavily restricted in Okaloosa, Palm Beach and Walton counties. Using pesticides on range and pasturelands would be highly restricted in Jefferson, Lee and Liberty counties. And pesticide use on field crops would be restricted most in Broward, Dade, Glades and Palm Beach counties," Nesheim explains.

A complete list of endangered species for every county

(continued on page 72)



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(continued from page 70)

in the state will be released by the federal agency, he adds. Examples of endangered species in Florida include the woodstork, red-cockaded woodpecker, grasshopper sparrow, everglades snail kite and the eastern indigo snake.

Enforcement would be by EPA itself or by a state agency under contract to the federal agency. In Florida, the Department of Agriculture and Consumer Services will handle enforcement. Violations will range from a first-time warning to harsh fines.

Violators could be identified by state or federal enforcement agencies or by private individuals or groups interested in protecting endangered species.

“One of the provisions of the Endangered Species Act is ‘the right of private action’ whereby individuals can bring suit against other individuals who are violating the act. This means someone could sue a neighbor down the road who is using a pesticide that might be harming an organism identified as an endangered species,” Nesheim concludes. ■

EPA'S ENDANGERED SPECIES LABELING DRAWS PROTESTS

EPA's endangered species labeling program will either start over in a rule marking mode or be taken to court because it was not. The American Farm Bureau Federation (AFBF) has asked EPA Administrator Thomas to begin rule making for the program. The California Department of Food and Agriculture has also asked the Agency to reevaluate the program before its 1988 effective date. It is also understood that USDA has provided EPA with negative comments on the labeling program.

According to concerns expressed by John C. Datt, Executive Director, Washington Office, AFBF:

— The lack of a formal rulemaking for the program violates FIFRA the Administrative Procedures Act and the Endangered Species Act (ESA).

— “FIFRA Section 6(b) also requires that EPA consider mitigation measures short of cancellation or use prohibitions that will permit continued use while at the same time adequately protect environmental interest. By imposing a blanket non-selective prohibition against pesticide use in areas that EPA determines might affect listed species, EPA has ignored this statutory requirement.”

— “Notwithstanding a rulemaking requirement, the program must at the very least be postponed until the requested mapping (by the USDI's Fish and Wildlife Service) has been completed, evaluated and published as required.”

— “Nearly one-third of the nation's counties will be affected. The use of one or more pesticides — many of them essential to agricultural production — will be discontinued in more than 900 counties or portions of counties. In many cases, satisfactory substitutes for these products have not been determined or do not exist.”

— “The proposal could result in an unfair disadvantage for individual agricultural producers. It is conceivable, for instance, that one farmer would not be allowed to use atrazine on his corn while his neighbor across the road would have no such restriction.”

— “If strictly enforced, the endangered species labeling program would disrupt important agricultural programs such as weed, grasshopper and boll weevil eradication programs within USDA.”

Rex Magee of the California Department of Food and Agriculture stated “Indiscriminate prohibition or restriction of the 90 odd pesticides currently listed for revised labeling could have catastrophic effects on California Agriculture.” Magee stated the available bulletin range maps have serious errors and that they do not agree with other range information from EPA and the Fish and Wildlife Service (FWS). He stressed applying error-ridden maps and bulletins to five counties in the state in which agricultural production accounts for over \$3 billion a year could remove large areas from agricultural production. (P&TCN, V. 15, No. 37).

SOME PRODUCTS ALREADY HAVE ENDANGERED SPECIES LABELING

While EPA's Endangered Species Labeling is scheduled to take effect in 1988, some pesticide products already bear instructions for users in counties that are listed on the labeling to get a certain EPA bulletin from their County Agricultural Extension Agent, the State Fish and Game Office or their pesticide dealer to learn the use restrictions required for the protection of endangered species.

There is one problem! The bulletins don't exist. EPA is responsible for preparing the bulletins and the agency did not see that these bulletins were prepared and distributed to Extension Offices and other sources before allowing products with such labeling to appear on the market. Before using one of these products, users should call:

Linda Walker
U.S. Fish & Wildlife Service
Jacksonville, FL
904/791-2580

The caller should be prepared to provide the following information:

- Complete trade name of product
- Common or chemical name of active ingredient
- Geographical information about the proposed use site such as distance from streams, wetlands and identifiable landmarks such as county roads. ■

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