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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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