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A move to ease pesticide laws

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A little-noticed section of a congressional bill to overhaul the Endangered Species Act would give federal regulators a five-year pass from seeking expert scientific advice from wildlife agencies on the harmful effects of pesticides on rare animals and plants, a move environmentalists say would further threaten hundreds of animals including several in the Bay Area.

The U.S. Environmental Protection Agency evaluates insecticides and herbicides up for registration or, every 15 years, for re-registration. Under the law as it is now, if it finds evidence that a pesticide could affect animals and plants protected by the act, the agency must consult with wildlife agencies before approving its use.

Environmental groups say it is crucial that the U.S. Fish and Wildlife Service and the National Oceanic and Atmospheric Administration have an opportunity to present scientific studies showing effects of chemicals on animals and plants because the groups have used the evidence in court to force the EPA to limit the use of dozens of pesticides that could hurt salmon, steelhead and the California red-legged frog.

But under the bill by Rep. Richard Pombo, R-Tracy, for five years the agency would not have to seek the

expertise of wildlife agency scientists over how pesticides could affect the imperiled species.

The bill would eliminate key provisions of the nation's toughest environmental law safeguarding the 1,272 listed species of plants, birds, fish, amphibians, insects and mammals in the wild. The bill already has passed the House and is expected to find support in the Republican-controlled Senate.

The pesticide changes and other major revisions are opposed by environmental groups, and local governments and states across the nation are passing resolutions in support of the original 1973 act, including the California counties of Marin, San Francisco, San Mateo, Santa Clara and Santa Cruz; and the city of Los Angeles.

"We see the act as a safety net for wildlife, and the Pombo bill cuts a hole in that net," said Sarah Matsumoto, field director of a nationwide coalition of 360 conservation, religious and hunting and fishing groups that want to save it.

In past years, the Fish and Wildlife Service has raised concerns about harm to listed species from pesticides, among them 2,4-D, atrazine, diazinon and endosulfan. In 2002, the agency wrote the EPA saying that the insecticide endosulfan, under consideration for re-registration at the time, could kill or disrupt

endocrine systems of fish, birds, amphibians and mammals even at normal applications. Endosulfan should not be re-registered, the agency said.

But as of 2004, the EPA had registered 103 products with endosulfan for general use and about 60 special uses, according to Jeff Miller, wildlands coordinator at the Center for Biological Diversity in San Francisco.

In response to a lawsuit the group filed in the case of the red-legged frog, a judge ruled that the EPA was in violation of the act because it didn't consult with the Fish and Wildlife Service over 66 pesticides, including endosulfan. The center filed a motion in January asking the judge to restrict the use of endosulfan in key frog habitat throughout California.

A report released today by the center, titled "Poisoning Our Imperiled Wildlife: San Francisco Bay Area Endangered Species at Risk from Pesticides," says the pesticides could harm 31 threatened animals, including the San Joaquin kit fox, Alameda whipsnake, Western snowy plover, California tiger salamander, the freshwater shrimp, Lange's metalmark butterfly and the delta smelt.

Some of the 35 plants disappearing from the region are the Presidio Clarksia, Tiburon Indian paintbrush and Sebastopol meadowfoam, the report says.

CURRENT RULES FOR PESTICIDES

When the U.S. Environmental Protection Agency reviews pesticides for approval, it must seek expertise of wildlife agencies if it finds evidence that the chemicals could hurt endangered species.

HOW THE RULES WOULD CHANGE

For five years, the EPA -- or any federal or state agency using pesticides -- would not have to consult with the U.S. Fish and Wildlife Service or the National Oceanic and Atmospheric Administration about possible harm to rare species.

Source: Endangered Species Act; House Bill 3824

The original pesticide-review requirement was written into the Endangered Species Act to protect the hundreds of sensitive species at risk of extinction from poisons used on farms, forests and households. Pesticides were a major factor contributing to the decline of the bald eagle, peregrine falcon, California brown pelican and other species, and DDT was banned in 1972.

Pesticide industry representatives have been lobbying for years to remove the requirement, and they support it in the Pombo bill. They have argued that the EPA is the expert agency and that the pesticides don't need further scrutiny from the wildlife agencies if the EPA has carefully reviewed pesticides under the Federal Insecticide, Fungicide and Rodenticide Recovery Act.

Kenneth Weinstein, a Washington, D.C., attorney representing Syngenta Crop Protection Inc. and CropLife America, has argued for the five-year delay on behalf of his clients in courts and in Congress. For several years, the EPA has conducted a general ecological assessment on pesticides that "provides a basic level of protection for all wildlife, including endangered species. So they're not

without protection," he said.

"What still needs to be done is the individualized assessment for every pesticide for every one of the 1,200 endangered species. The Pombo bill lets that process play out. It lets the EPA do its job without having courts breathing down its neck telling the agency how to do its job," Weinstein said.

Republican leaders in the House and the Senate, including Pombo, chairman of the House Resources Committee, and Sen. James Inhofe of Oklahoma, chairman of the Senate Environment and Public Works Committee, support a major revision of the act.

Pombo said Wednesday that when he took office in 1993, he saw the Endangered Species Act creating problems for private property owners and tried to fix it.

"What I've learned over the last 13 years is that the law didn't work at helping species. The only way you could fix both problems is to bring property owners in as part of the solution" by offering incentives and forming a cooperative relationship, he said.

Perhaps the most far-reaching proposal would eliminate a requirement that federal resource agencies designate acres of habitat that are deemed critical for the recovery of a species and replace it with voluntary recovery plans. The Pombo bill also includes dozens of other changes, long sought by opponents of the act, who include lobbying groups for developers, builders, ranchers and growers who want payment from the government if the act interferes with plans to alter land.

In preparation for a fight in the Senate perhaps as early as this month, moderate Republican Sen. Lincoln Chafee of Rhode Island, chairman of the Fisheries, Wildlife and Water Subcommittee, has tried to win a bipartisan compromise. Chafee initiated a drive with other senators to use the mediation services of the nonprofit Keystone (Colo.) Center, which helped his father, Sen. John H. Chafee, win bipartisan support for amendments to endangered-species laws a decade ago.

But the efforts failed last week after the parties couldn't agree on ways to change the act. Inhofe, who supports Pombo's bill, said he would bring up a workable bill for a vote by the end of March. The Democratic leadership is talking with its Republican counterparts but is leery of changes that would weaken the act.

California Democrat Sen. Barbara Boxer sees the Pombo bill as gutting the original act and says the "kind of blanket exemption to exclude pesticides from the consultation process required by the Endangered Species Act will be harmful not only to endangered species but also to human health."

Conservation groups also caution that the proposed reduction in pesticide scrutiny over the next five years would come as the Bureau of



Endangered

San Joaquin kit fox

listed as endangered in 1967.

Habitat: Contra Costa, Alameda, Santa Clara counties.

Hundreds of foxes were killed by strychnine-poisoned bait used to kill coyotes. Fumigants, used to kill burrowing rodents, and rodenticides can be fatal to the foxes, which weigh about 5 pounds.

Land Management plans to spray 18 herbicides, including four new ones, on 932,000 acres of public land in 17 Western states, including California.

In comments on the proposal, lawyers for the Center for Biological Diversity said they could find no evidence in the BLM's environmental review or elsewhere in the record that the 18 herbicides that the agency proposes to use in the project were properly approved by the EPA in accordance with the act.

Getting rid of the requirement for consultation with wildlife agencies "has been on the wish list of the pesticide industry for a number of years," said Brent Plater, attorney at the center. "When Bush became president, and Congress was in the hands of Republicans, this 'wish list' made it into the Pombo bill."



Threatened

Western snowy plover

listed as threatened in 1993.

Habitat: All coastal counties.

Organochlorines such as endosulfan and the banned DDT reduce egg production and damage embryos of the small shorebirds.

Threatened

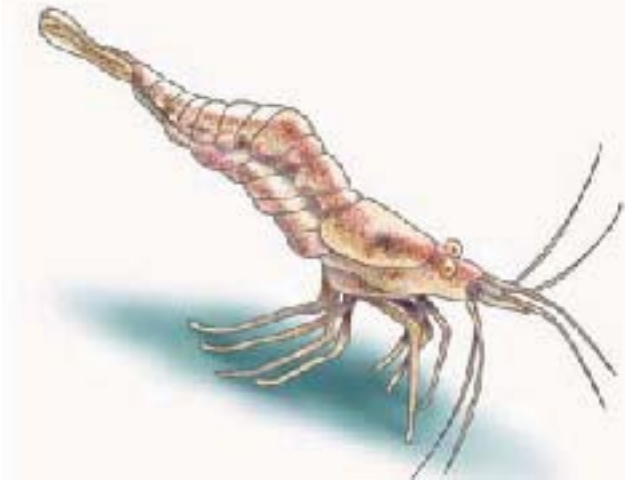
Alameda whipsnake

listed as threatened in 1997.

Habitat: Alameda, Santa Clara counties.

The fast-moving slender black snake with yellow-orange racing stripes can be harmed by rodenticides, herbicides and insecticides consumed by their prey. They live in grassland and chaparral.





Endangered

Lange's metalmark butterfly

listed as endangered in 1976.

Habitat: Contra Costa County.

The only remaining butterflies live in the Antioch Dunes National Wildlife Refuge. Pesticides drifting onto the refuge harm them and the insects that pollinate their food plant, the naked-stemmed buckwheat.

Endangered

California freshwater shrimp

listed as endangered in 1988.

Habitat: Marin, Sonoma, Napa counties.

Organophosphates such as chlorpyrifos, diazinon and diuron have run off farms and households into creeks and pools, where they can poison the shrimp.



Threatened

California tiger salamander

listed as threatened in 2004.

Habitat: Sonoma, Solano, Contra Costa,

Alameda, Santa Clara counties.

Toxic agricultural and landscaping chemicals, including endosulfan, can paralyze, delay metamorphosis of and kill the sensitive amphibian, particularly vulnerable because of permeable skin

