

4. ENDANGERED SPECIES: Lawsuit targets possible pesticide effects on polar bears

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Allison Winter, E&E reporter

Environmentalists announced today a lawsuit against U.S. EPA aimed at forcing consideration of pesticides' effects on polar bears.

The Center for Biological Diversity is seeking biological consultations on 14 pesticides, some of which are commonly used on U.S. farms. The group wants federal biologists to weigh in on whether the pesticides could be harming Alaskan polar bears.

The center sent the notice of intent to sue to EPA and Interior Department officials today, the first formal step in the lawsuit process. If the agencies do not respond within 60 days, the group will take the issue to court.

The Interior Department listed the polar bear as "threatened" last year due to threats to its Arctic habitat. While the listing focused on the effects of climate change on the species, the Fish and Wildlife Service identified contaminants as one of the additional stressors on polar bears. Pesticides approved and used in the United States can travel to the Arctic locally or over long-range transport through the water or air. The chemicals can accumulate in the tissues of polar bears, potentially affecting the species' health and reproduction.

The environmental group has been successful in previous lawsuits on pesticides. EPA agreed last week to conduct consultations on dozens of chemicals and imposed new use restrictions in California to protect 11 endangered species in California. But the polar bear complaint takes a broader look; the group wants the government to consider how pesticides all over the country could affect polar bears.

"What's new about this case and how it differs from many of the other previous pesticide lawsuits is that those typically involved spraying the pesticide next to species' habitat," said Brendan Cummings, a senior attorney at the center. "Here, we are dealing with pesticides in the lower 48 that are being transferred by global processes to bear habitat."

If consultations with Fish and Wildlife Service biologists find that pesticides pose a threat to the bear, they could lead to further litigation or more stringent restrictions on chemicals.

"Solving the problem of the Arctic is more than just buffer zones around riparian areas," Cummings said. "It is eliminating those things that are known and expected to be most problematic by putting restrictions on their use such that they don't get off the farm and into the food web."

CropLife America, the trade group for manufacturers and distributors of pest-control products, won't comment on the lawsuit, since it focuses on EPA and does not directly involve the group, spokeswoman Susan Helmick said. The group, she said, supports "EPA fulfilling its statutory obligations" under the Endangered Species Act.

Environmentalists have challenged the safety of some of the chemicals -- including atrazine, diazinon and chlorpyrifos -- in previous lawsuits, but pesticide manufacturers say their studies show the chemicals are harmless to humans and wildlife when applied properly.

A separate lawsuit from a coalition of farm workers, public health and environmental groups is seeking a U.S. ban on endosulfan, one of the pesticides that is also on the polar bear list. Endosulfan is used on cotton, fruits and vegetables, but it is already banned in more than 20 countries and the European Union.

EPA spokesman Dale Kemery said the agency could not comment on pending litigation.

"However, EPA takes its responsibilities related to the Endangered Species Act seriously and is evaluating potential risks to threatened and endangered species due to pesticides in a systematic manner as part of its registration review program," Kemery said.

The Endangered Species Act prohibits anyone from harming or harassing a listed species and requires wildlife biologists to consult over federal permits that could jeopardize a listed species.

A controversial "4(d)" rule that accompanied the polar bear's listing exempted any activities outside of Alaska from being considered under the "take" provisions -- barring environmentalists from suing power plants or pesticide companies for their potential harm to the bear. But ESA and federal insecticide regulations still allow groups to press the agency to study the potential effects of the chemicals on the polar bear.

Reporter Sara Goodman contributed.



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