



# A Parting Shot At Endangered Species

## Bush Proposes Eliminating Protections for Endangered Species

For more than 30 years, the Endangered Species Act has protected wildlife at risk of extinction. Because of this landmark law, bald eagles, grizzly bears and peregrine falcons and many others are all thriving. But the Bush administration has proposed an 11th-hour rule change that would make it harder for the U.S. Fish & Wildlife Service (FWS) and the National Marine Fisheries Service (NMFS) to protect endangered and threatened species.



The Endangered Species Act (ESA) requires federal agencies to consult with wildlife experts at FWS and NMFS to ensure that their actions do not jeopardize a listed plant or animal, or harm or destroy its habitat. These independent reviews, called Section 7 consultations, provide a critical safety net for imperiled wildlife.

After years of failed attempts to roll back endangered species protections in Congress, industry lobbyists have convinced the Bush administration to propose weakening the ESA themselves through a regulatory change.

### Removes Crucial Safeguard for Imperiled Wildlife and Habitat

The Bush proposal would allow federal agencies to decide on their own if they think their actions would negatively impact a threatened or endangered species. Many of these agencies do not even have biologists or other qualified staff to make such a determination. If the agency decides the answer is “no,” independent experts at FWS and NMFS would never have the opportunity to review the decision. While the action agency would theoretically still be responsible if harm occurs, it would take a citizen lawsuit against the agency to halt or alter the destructive activity. Citizens and courts would be forced to provide the independent checks and balances now provided by FWS and NMFS experts.

Additionally, even when an agency requests that FWS or NMFS consult on a project, the Bush proposal would place a 60-day limit (with a possible 60-day extension) on completion of informal consultations; otherwise, the project could move forward regardless of the impacts on listed species. This would increase the likelihood that projects that could harm imperiled wildlife could move forward.

Currently, about 70,000 federal actions per year have triggered consultation. On average, more than 95 percent are resolved through informal consultation. Informal consultation allows the project, with agreement from the wildlife agencies, to proceed. Even in these situations it is common for recommendations for project modifications to be made, which can provide a crucial safeguard for listed species. By abolishing this process, few of these projects improvements would be likely to occur.

# Bush Administration Proposal Puts Plants and Animals at Risk

## Eliminates Protections for Polar Bears and Other Wildlife Threatened by Climate Change

In announcing this proposed regulatory change, Interior Secretary Dirk Kempthorne made clear that these changes were intended to put off-limits any consideration of the impacts of greenhouse gas emissions on polar bears or other wildlife affected by global warming. Indeed, the preamble to the rule singles out greenhouse gas emissions as an example of an effect that would not be evaluated under Section 7 because, in the Bush administration's view, (1) there is not clear and substantial information that the effects of the emissions are an essential cause of effects to polar bears by polar ice cap melting, and (2) even if it is an effect covered by the consultation requirement there are other contributing factors to global warming so agency actions cannot be held responsible. It is the government equivalent of the age-old excuse "everyone else was doing it."

This proposed change, however, goes well beyond global warming. It will affect all listed species and critical habitat from being protected from a host of indirect effects resulting from federal actions, permits or funding decisions.

## Circumvents Careful Legislative Decision Making

With only a few months remaining in the Bush administration, this 11th-hour proposal is clearly an effort to secure dramatic changes to the ESA that the administration and its industry allies have been unable to achieve through legislation. The concepts of self-consultation and unattainable deadlines have been repeatedly rejected by Congress. This proposed rule attempts to eviscerate one of the most important provisions of the ESA with nearly no public debate and no Congressional consideration. If finalized, this parting shot at plant and animal conservation by the Bush administration could be a final nail in the coffin for polar bears, salmon, manatees and the thousands of other species listed under the ESA.

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