

## Endangered Species Threatened: Tell the Federal Agencies Proposing Dangerous Changes to the Law Why It's Important

The Trump administration is threatening species, land conservation, and human health and wellbeing by rolling back our health, safety, and environmental protections. This time the US Fish and Wildlife Service (FWS) and the National Marine Fisheries Service (NMFS) are attempting to undercut the scientific basis of the Endangered Species Act (ESA) by proposing changes that will make it less effective. The result? A greater chance that species will go extinct.

But we have an opportunity to provide input and shape the outcome of these proposed changes during the open comment period. ***Written comments must be submitted to the regulatory docket by September 24.***

### How to Submit a Comment

Go to the [public comment page](#) on Regulations.gov for the proposed policy (docket FWS-HQ-ES-2018-0006-0001) and click on the "Comment Now!" button. Make sure all documents contain your name and contact information. Be sure to submit your comment by September 24, 2018 at 11:59 p.m. ET, and check your email for a receipt confirmation. While a submission can be typed directly into the website, uploading a separate document may be easier for you to edit, save, and submit.

### Tips for Writing a Comment

Remember that the most effective comments are thorough, unique, and specific. The public comment process allows scientists and the public to help agencies understand the full range of consequences of a proposed rule. Arguments made during this process are often used as evidence for any future court challenge.

- Read through the summary, general information, and background to be aware of the context on why the agency is taking this action.
- Write concisely but provide all details you think may be relevant.
- Effective comments lay out and support facts the agency has ignored or overlooked.
- Describe the personal impact of the proposed rule. That could include how it will impact the public, local environments, and any other factors.
- Address potential negative impacts of the proposed rule, overlooked impacts, and intended or unintended consequences of the proposed rule, and, when available, attach key studies and research so they are on the record.
- It is not sufficient to simply disagree with the agency's policy judgments; this is a qualitative exercise, not a poll. Explain why you disagree.

### What to Address

The FWS and NMFS jointly issued the proposed rule, "[Endangered and Threatened Species: Listing Species and Designating Critical Habitat](#)." This proposal contains troublesome language around economic considerations and planning for the foreseeable future. The proposal adds economic considerations in the process for deciding if a species is in fact threatened or endangered, instead of making it a purely scientific decision. The proposal also limits the extent that the agencies can look for potential harms to a species in the foreseeable future which could keep climate change impacts—such as drought, habitat loss from flooding, heat impacts, and range changes—out of the listing decision and

recovery plans for species. In your comment, address the benefits of protecting species from extinction for the public and the broader environment. Also, address the potential negative impacts, the flaws in the agencies' justifications for their proposed changes to implementing the Endangered Species Act, overlooked impacts, and intended or unintended consequences. If you have them, attach key studies and research. Your comment and any attached studies become part of the official record for this rulemaking and are important for future actions, including legal action. The following is a framework to use and then bolster with your own examples.

### General Endangered Species Act Talking Points

- The Endangered Species Act is our nation's preeminent conservation law aimed at protecting our nation's biodiversity and preventing extinction.
- The law has been widely successful – preventing 99 percent of listed species from going extinct.
- The Endangered Species Act has aided in the recovery of iconic species like the bald eagle, the grizzly bear, and the manatee.
- The Endangered Species Act is effective because it relies on the best-available science.
- Earlier this year, nearly 1,500 scientists [urged](#) Congress to protect the Endangered Species Act and its strong, scientific foundation.

### Specific Proposed Changes to Address

The Departments of Interior and Commerce are responsible for making decisions on whether to list species as threatened or endangered. ("Endangered" means a species is in danger of extinction throughout all or a significant portion of its range while "threatened" means a species is likely to become endangered within the foreseeable future.) Currently, the determination of endangered or threatened status is made without reference to possible economic or other impacts but these factors are taken into account when deciding how to protect a species. The two Departments (via the agencies that implement the law, FWS and NMFS) are proposing to remove these parameters from the regulations, allowing for considerations other than science to influence listing decisions. The proposed changes will weaken the ability of the FWS and NMFS to make decisions informed by science when implementing the Endangered Species Act.

- Tell the agencies that the status of a species is not a matter of economic impacts, but of biology. Economic impacts are already taken into account when deciding how to protect a species, but in making listing decisions, the agencies should be guided by the relevant science, not by economic concerns.
- The agencies argue in their proposal that including economic information in the listing decision better informs the public. There is ample opportunity in the process to determine how to conserve threatened or endangered species to inform the public of possible economic and other impacts.
- Including economic information in the listing decision itself is contrary to the four factors that the law states should be the basis for determining status:
  - "(A) the present or threatened destruction, modification, or curtailment of its habitat or range; (B) overutilization for commercial, recreational, scientific, or educational purposes; (C) disease or predation; (D) the inadequacy of existing regulatory mechanisms; or (E) other natural or manmade factors affecting its continued existence."

The definition of a species as “threatened” includes the phrase “within the foreseeable future.” In other words, it requires the agencies to look ahead as they make listing decisions. The proposal says that the agencies will evaluate what the foreseeable future means on a case-by-case basis, but in describing factors to be considered does not include a changing climate, only environmental variability. They also state that the foreseeable future should only include the time period for which predictions are “reliable.”

- Climate change is not the same as environmental variability. The ongoing effects of global warming are directional, very broad-scale, and have already posed observable and quantifiable harm to species and their habitats. To not account for a changing climate in listing decisions is to ignore a critical factor relevant to the listing criteria.
- Stating that the timeframe to be considered should be based on when projections are “reliable” without any indication on what that means, is being intentionally nebulous. It should be sufficient to say that the timeframe should be based on the best science available, without a vague modifier about reliability.

### [Additional Attempts to Weaken the Law](#)

While we are focusing on and are most concerned with the above proposed changes to the Endangered Species Act, it is important to note that there are two other proposed rules that attempt to undermine the science-basis of the law with open comment periods. Those rules are [docket FWS-HQ-ES-2018-0007-0001](#) “Endangered and Threatened Species: Revision of Regulations for Prohibitions to Threatened Wildlife and Plants” and [docket FWS-HQ-ES-2018-0009-0001](#) “Endangered and Threatened Species: Interagency Cooperation.” If you can, please submit comments on these rules as well. You can use the General Endangered Species Act Talking Points above and customize as you are able.

Once you’ve submitted a comment, let us know by filling out this [reportback form](#). Please include if and how this guide has been useful.

For additional guidance on how scientists can use their expert voice to protect and further best available science in the Endangered Species Act, see the guide, [“Advancing Science in the Endangered Species Act: A Toolkit for Scientists.”](#)