



Endangered Species Act

Proposed Revisions to the Regulations



Background

- Section 4 of the Act
 - Provides for how to add and remove species from the Federal lists of threatened and endangered species
 - Provides procedures for designating critical habitat
 - Addresses protective regulations for threatened species (i.e., 4(d) rules)
- Section 7 of the Act
 - Provides requirements for Federal agency cooperation and consultation procedures
- Section 9 of the Act
 - Establishes prohibitions for listed species



Proposed Changes to 50 CFR 424 (Sec 4)

Listing, Delisting, or Reclassifying species

- Creates a regulatory framework for the phrase “foreseeable future”
- Clarifies that the standard for listing and delisting of species is the same
- Removes reference to economic or other impacts in classification decisions



Proposed Changes to 50 CFR 424 (Sec 4)

Criteria for Designating Critical Habitat

- Clarifies when designation of critical habitat may not be prudent
- Revises the process and standards for designation of unoccupied critical habitat



Proposed Changes -- 50 CFR 402 (Sec 7)

The proposed revisions would:

- Address alternative consultation mechanisms
- Revise the definitions of “destruction or adverse modification” and “effects of the action”
- Address certainty of mitigation proposed by action agencies
- Otherwise improve the consultation process



Proposed Changes to 4(d) Rules 50 CFR Part 17 (FWS Only)

- Rescinds current regulations that automatically apply prohibitions for endangered species to threatened species
- Protections for species listed as threatened in the future will be made on a case-by-case basis tailored to what is necessary and advisable for that species (i.e., via a species-specific 4(d) rule)
- No change in protections for species currently listed as threatened
- Aligns the Fish and Wildlife Service with the National Marine Fisheries Service practice





https://www.fws.gov/endangered/improving_ESA/regulation-revisions.html