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[Home](#) > [Printer-friendly PDF](#) > [Western Energy Alliance Opposes Rules Expanding Endangered Species Act](#)

Western Energy Alliance Opposes Rules Expanding Endangered Species Act ^[1]

(DENVER) - Today, [Western Energy Alliance](#) ^[2] submitted comments to the Fish and Wildlife Service (FWS) regarding two rulemakings and one policy that would considerably expand the Endangered Species Act (ESA) beyond congressional intent and assert new federal powers to control land and economic activity. The three rules deal with critical habitat designations and how FWS will assess on-going private conservation actions. If implemented as proposed, these rules would have significant negative impacts on the economies of the West without delivering a commensurate benefit to endangered species.

By changing definitions and asserting policy that is contrary to the ESA and relevant case law, FWS would greatly expand government control on federal, state and private lands. The rules impose severe restrictions on lands that are not occupied by endangered species but could possibly contain them in the unspecified future if theoretical changes occur due to floods, earthquakes, climate change or other hypothetical habitat variations. By replacing verifiable data with speculative modeling, FWS proposes to vastly expand its authority to dictate economic activity without proper justification or basis in law.

"By proposing to expand its regulatory powers, FWS will discourage on-the-ground conservation projects and impose a one-size-fits all federal approach that is less effective at protecting and recovering endangered species," said Kathleen Sgamma, vice president of government and public affairs at Western Energy Alliance. "The proposals often appear subtle and harmless—a changed definition here, a selective use of case law there—but would expand the already toughest environmental law well beyond what the FWS can handle administratively or what the American economy can bear.

"Across the West, state wildlife agencies have the experience and understanding of actual habitat and population conditions to effectively manage species. Landowners, local communities, industries, sportsmen and other stakeholders work collaboratively to protect species in myriad voluntary conservation projects. These rules take away that local and state initiative and insert FWS more intricately into day-to-day wildlife management, even though it lacks the resources and experience of the states. With about 1,500 species already listed and the imposed requirement to assess 878 more in a short period of time due to [sue-and-settle](#) ^[3], it makes no sense for FWS to expand its workload well beyond what it can manage," concluded Sgamma.

To read the full comments the Alliance submitted to FWS, click below:

- [FWS/NMFS Policy on ESA Section 4\(b\)\(2\)](#) ^[4]
- [FWS/NMFS Proposed Rule on Adverse Modification of Critical Habitat](#) ^[5]
- [FWS/NMFS Proposed Rule on Critical Habitat Designation](#) ^[6]

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[2] <http://www.westernenergyalliance.org/>

[3] <http://www.westernenergyalliance.org/knowledge-center/legal/sue-and-settle>

[4]

<http://cdn.westernenergyalliance.org/sites/default/files/WesternEnergyAllianceCommentsExclusionsPolicy%28FWS%E2%80%9393R9%E2%80%9393ES%E2%80%93932011%E2%80%93930104%29.pdf>

[5] <http://cdn.westernenergyalliance.org/sites/default/files/WesternEnergy%20AllianceCommentsAdverseModification%28FWS-R9-ES-2011-0072%29.pdf>

[6]

<http://cdn.westernenergyalliance.org/sites/default/files/WesternEnergyAllianceCommentsCriticalHabitat%28FWS%E2%80%9393HQ%E2%80%9393ES%E2%80%93932012%E2%80%93930096%29.pdf>