
U P D A T E

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This periodic publication is intended solely for the use of NESARC members.

House Resources Committee focuses on ESA modernization. As was reported in a recent NESARC Legislative Alert, the House Resources Committee recently focused on modernization of the Endangered Species Act (ESA) with the issuance of a report entitled, "The ESA at 30: A Mandate for Modernization." The Resources Committee also convened a hearing on H.R. 2933, Rep. Dennis Cardoza's (D-CA) "Critical Habitat Reform Act." Both the release of the report and the hearing served as the Committee's official kickoff of ESA efforts this year. For further information, the Legislative Alert may be found on the NESARC website at <http://www.nesarc.org/esaupdate043004.pdf>

New regulations to count hatchery salmon. The Bush administration has decided to count hatchery-bred fish when it decides whether stream-bred wild salmon are entitled to protection under the ESA, according to a draft document that was leaked to the press. The new regulations, which will be published later this year in the *Federal Register* and will be open for public comment, are in response to a 2001 federal court ruling in Oregon. In that ruling, U.S. District Judge Michael R. Hogan found that the federal government made a mistake by counting only wild fish and not counting genetically similar hatchery fish when it listed *coastal coho salmon* for protection. Officials said that the new policy may help guide decisions this summer by the Administration about whether to remove 15 species of salmon from protection as endangered or threatened.

FWS publishes updated list of candidates for ESA listing. FWS published last week a revised list of species of plants and animals that may warrant protection under the ESA, including 26 new candidate species added since the Candidate Notice of Review was last published in 2002. If the Service has sufficient information to propose listing a species as threatened or endangered, but is precluded from taking action by other, higher listing priorities, the species becomes a candidate species. The notice also informs the public about species the Service is considering proposing for protection, and it encourages conservation of candidate species. In addition, the notice includes 24 domestic animal species that already have been proposed for listing as endangered or threatened species, but for which a final listing determination has not been made. The notice as published in the *Federal Register* may be found at http://endangered.fws.gov/candidates/2003_CNOR.pdf

Report finds that ESA costs government, citizens billions per year. Enforcement and compliance with the ESA is costing federal and state governments and taxpayers as much as \$3.5 billion a year, according to a report prepared by the Property and Environment Research Center (PERC). The study found that ESA costs were probably four times higher than the estimates the FWS made in its annual accounting report sent to Congress last December. PERC researchers said that FWS underreported state and federal costs and did not account for private economic and social costs, such as the denial or delay of development projects, agricultural development or mining claims. Meanwhile, PERC's analysis found that half the expenditures FWS reported for 2000 went toward seven species, representing only 0.6 percent of listed species.

OMB Modifies Peer-Review Proposal. Responding to criticism from science advocacy and citizen groups, the White House Office of Management and Budget recently released a revised version of proposed guidelines aimed at standardizing the way federal agencies release and use scientific information. The revisions mark a partial change in what advocates have considered a central strategy in the war against “junk science.” The peer review guidelines set strict criteria that must be met before scientific information may be released through agency web sites or other channels, especially if that information is to be used in the crafting of significant regulations. Additional information on the revised guidelines may be found at <http://www.whitehouse.gov/omb/infoereg/infopoltech.html>

NOAA Fisheries establishes “species of concern” list. NOAA Fisheries recently announced in the *Federal Register* that it has established a “species of concern” list, and has placed 45 species on this list. According to the notice, the term “species of concern” will be used to identify species about which NOAA Fisheries has some concerns regarding status and threats, but for which insufficient information is available to indicate a need to list the species under the ESA. The notice indicates that the agency continues to maintain a “candidate species” list for species being considered for listing. No comments have been requested on the establishment of the list, but, according to the notice, comments may be submitted regarding the status of any species of concern. The notice may be found at <http://a257.g.akamaitech.net/7/257/2422/14mar20010800/edocket.access.gpo.gov/2004/pdf/04-8593.pdf>

Wyoming files lawsuit against feds over wolf management. Wyoming has filed suit against the federal government over its rejection of the state's wolf management plan in a move some say could delay removing the animals from the endangered species list. The state accused FWS of exceeding its authority, ignoring science and violating the Federal Procedures Act in rejecting the Wyoming plan. FWS also was accused of usurping the state's constitutional rights under the 10th Amendment, which guarantees state sovereignty. Conservationists called the complaint politically motivated, and said it was filed only to appease state officials. But ranchers argue that wolves are killing too many cattle and state wildlife, putting their livelihoods in jeopardy.

FWS rejects petition to add Colorado River *cutthroat* to ESA. FWS denied a request recently to list the Colorado River *cutthroat trout* as endangered or threatened. The agency did not find sufficient data to warrant adding the fish to the Endangered Species List, but stated that monitoring of the fish will continue. Environmental groups had filed the petition in December 1999 to request agency review of the *cutthroat trout's* status. The agency was obligated to review the petition within 90 days of filing, but a lack of funds and staff delayed the decision until last month.

MARK YOUR CALENDAR – NESARC 2004 Forum

On Wednesday, November 17, 2004, the National Endangered Species Act Reform Coalition (NESARC) will sponsor an ESA Forum. Members of Congress, state and local officials, Administration officials and others will be invited to participate. On the heels of the elections, the NESARC 2004 Forum will provide a good opportunity to evaluate prospects for improving the Endangered Species Act in the 109th Congress and highlight NESARC's plans for 2005. NESARC members are also encouraged to participate in NESARC's 2004 Annual Meeting, which will be held the afternoon of Tuesday, November 16, 2004. Please check your email in the coming weeks for additional information regarding the location of the Forum.